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10 UNITED STATES DISTRICT  
11 FOR THE EASTERN DISTRICT OF WASHINGTON

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 MALESA LYNN HALE,

16 Defendant.

Case No.: 4:22-CR-6007-MKD-2

United States' Sentencing  
Memorandum

17 Plaintiff, United States of America, by and through Vanessa R. Waldref,  
18 United States Attorney for the Eastern District of Washington, and Laurel J.  
19 Holland, Assistant United States Attorney for the Eastern District of Washington,  
20 submits the following sentencing memorandum:  
21

22 **I. Statement of Facts**

23  
24 In 2019, Defendant began a relationship with co-defendant, Bret Michael  
25 Emineth (Codefendant Emineth). ECF No. 87 at 9. Codefendant Emineth [REDACTED]  
26 [REDACTED]. Defendant had [REDACTED]  
27 [REDACTED]. ECF No. 100, ¶¶ 91, 93-94. Approximately one  
28 (1) year into the relationship with Codefendant Emineth,

Defendant became suspicious of [REDACTED] with [REDACTED] (Minor 1) and confronted him. ECF No. 87 at 9. Codefendant Emineth admitted that he had engaged in a sexual relationship with Minor 1. *Id.*

Defendant did not report Codefendant Emineth to law enforcement, withdraw from their relationship, or otherwise distance herself from him. *Id.* at 10. To the contrary, Defendant expressed her interest in sexually abusing Minor 1 to Codefendant Emineth. *Id.* Codefendant Emineth then gave Defendant [REDACTED] [REDACTED] sexually abuse Minor 1, as memorialized in text messages located on Codefendant Emineth's Samsung cellular phone on or about August 5, 2020:

Defendant	Oh yes I knew all that after we discussed it haha but I mean like I guess I don't know really just looking for someone to do anything with, I haven't thought about it, just fantasy right now. But maybe will just start with [Minor 1] hahah... I haven't asked because of our situation... but I mean if you insist hahah
Codefendant Emineth	Yeah, I think it'd be awesome! And I was jusy gonna bring [REDACTED] up! Whenever you're in the mood to taste [Minor 1] or if you just want to get some fingers inside [REDACTED] or feel like giving a dual blow job or anything like that (or whatever else you can think of), don't be afraid to ask. I think it's sexy as hell and I'm telling you as long as we're good you can have all the pussy you want, as much as you want it!  *again...just make sure I get to play too hahaha

*Id.* at 11-12.

During at least two separate instances that occurred on different occasions, Defendant herself sexually abused Minor 1 with Codefendant Emineth, touching Minor 1's nude body, digitally penetrating her vagina, and subjecting [REDACTED] to oral sex. *Id.* at 10. Codefendant Emineth was present during these incidents and simultaneously sexually abused Minor 1. *Id.* When one incident of sexual abuse concluded, Defendant thanked Minor 1, telling her that "it helped" Defendant and

Codefendant Emineth's relationship. *Id.* Defendant told Minor Victim 1 that she was beautiful, and that she (Defendant) found [REDACTED] sex arousing. *Id.*

On Codefendant Emineth's Samsung cellular phone, law enforcement officers located text messages between Codefendant Emineth and Defendant regarding their sexual abuse of Minor 1. *Id.* These messages included discussions regarding the [REDACTED] sexual interests of both Codefendant Emineth and Defendant, their sexual abuse of Minor 1, and their plans for future sexual abuse of Minor 1 and other minors, including Defendant's [REDACTED]. *Id.* One such text message exchange occurred on or about March 10, 2020:

Codefendant Emineth	Wait wait...you sent all that and really all I took from that was you got to see [Minor 1] getting dressed. How was that lol?
Defendant	Did I cause a distraction lol
Codefendant Emineth	Yes...which won't be remedied until you give me the details lol. Should have taken pics of the two of you (or 3) in your underwear lol. Or not...
Defendant	Lmfao you want the deets
Codefendant Emineth	I do want the deets...i am bored sitting in a truck. Imagination going crazy lol. ?? You're killing me lol...
Defendant	Literally just got home sweetie haha
Codefendant Emineth	Oh, I'm sorry. I thought you were home already. Take your time baby
Defendant	Well all that happened was [REDACTED] was getting ready in [REDACTED] underwear lol then [REDACTED] went to [REDACTED] put [REDACTED] pants on and then took shirt off and put on tube top ([REDACTED]) and then sweater on top lol No sexy dance or anything lol [Defendant's [REDACTED]] was there, but [Defendant's [REDACTED]] did say [REDACTED] is getting more comfortable with dressing in front of people lol I was [REDACTED] when [Minor 1] was getting ready and when [REDACTED] put [REDACTED] sweater on [REDACTED] looked at me and I winked at [REDACTED] lol

1		That's it
2		Nothing too fancy I'm sorry hahaha
3		And I didn't expect it so I didn't have my phone out hahaha
4		But I will see haha
5		I take it all back take it all back... nahhh id do it again muahahah
6	Codefendant Emineth	Well that is still a story that makes me very happy. So [Minor 1] knew you were watching [REDACTED] and didn't mind lol?
7		
8	Defendant	Lol of course not [REDACTED] loves it bahahah
9		I'm glad you're happy
10	Codefendant Emineth	Excellent!! I'm glad you're happy too!
11		Now to get [Defendant's [REDACTED]] changing like that in front of you two as well lol....
12	Defendant	Lol yes, if [Defendant's [REDACTED]] would that would be perfect lol
13		
14	Codefendant Emineth	Yes, that would be awesome if all 3 of you started changing in front of each other and then did a little photoshoot lol
15		
16	Defendant	I'm speaking truth lol
17		I want you to be comfortable talking to me so you can find relief that you're not the only freak in this relationship bahahah
18		
19	Codefendant Emineth	Well...I'm getting more comfortable with things. Especially when I feel you're comfortable. I'm enjoying seeing you start to flirt with [Defendant's [REDACTED]] and [REDACTED] getting more out of [REDACTED] shell. I can't wait to see you do more things with [Minor 1] lol. And I would REALLY like to
20		see you taking pics of the [REDACTED] doing sexy things or undressed if they were to let you
21		But that's just my mind wandering while I'm bored at work
22		
23	Defendant	Lol you're cute
24		
25	Codefendant Emineth	Okay
26		Tell [Minor 1] [REDACTED] owes me a tag team blow job with you at some point lol
27		

28 *Id.* at 10-12.

On August 9, 2020, Codefendant Emineth and Defendant continued to discuss their sexual abuse of Minor 1 and their predilection for taboo sexual abuse, specifically the sexual abuse of [REDACTED] [REDACTED] (Minor 1):

Codefendant Emineth	In my fantasies you will suck and fuck cock when I tell you too and enjoy it
Defendant	And tell [REDACTED] I said so!
Codefendant Emineth	See...my baby just NEEDS dick! You fucking sexy whore!
Defendant	Hell yeah! Oh and don't forget [REDACTED] [Minor 1]! Hopefully soon [REDACTED] begging you to shove it in [REDACTED] tight pussy too!
Codefendant Emineth	You can teach [REDACTED] how to be a proper slut too!
Defendant	Yes! With class haha Can't wait for [Minor 1] to be just as excited when get get rowdy in the bedroom!!!
Codefendant Emineth	I am the love of your life and you're the love of mine! You make me very happy sweetheart! I love you more and more every day (and not because of sex)! Yes, that will be a fun time if/when [REDACTED] finally gets comfortable!
Defendant	Exactly, the sex is a bonus lol, but I love you for you and you are the very best thing that's ever happened to me!!!
Codefendant Emineth	I'd imagine you would very much appreciate [REDACTED] being your playmate if [REDACTED] gets as excited as you do!
Defendant	Lol YASSSSS
Codefendant Emineth	You and me conquering the world love!
Defendant	I need another partner to help satisfy you, not that I can't, we both know I can very much, but I love having [Minor 1] in there because of the seriously kinkyness to it! It's so fucking hot and it is so

	exciting to know you want that too and get excited knowing I do too gahhhh Yasss we are babe!!!
Codefendant Emineth	I am totally fine with bringing in whatever woman you think looks delicious enough to eat! But [Minor 1] does bring it up a notch because of the sheer taboo factor on multiple levels!! So you two can have each other whenever and as much as you want! And it is really exciting to know we are into it and excited by it and excited that the other likes it too! I love you my kinky gal!
Defendant	Aww I love you my kinky guy! You're so right the taboo factor brings it up x1000 hahah if not more So awesome [REDACTED] enjoys it too bahahah
Codefendant Emineth	Mmhmmmm! Well said my baby! I think its super fucking hot that [REDACTED] might have a crush on you! Grrrrrrr
Defendant	Lmfao wait but you should be happy [REDACTED] considered you [REDACTED] first cock to suck and possibly fuck! [REDACTED] obviously found you hot as hell since [REDACTED] kept looking at you sexually and loves your cock as much as I do! Did [REDACTED] ever come to you and wanted it without you asking? I can't remember what you have said so I am asking again, sorry lol just got
Codefendant Emineth	I am happy about that! But you are the first woman to lick [REDACTED] pussy and likely the first woman [REDACTED] will eat out! And I think you're the first woman who [REDACTED]'s fingered (and definitely in the ass) It was usually just unsaid and [REDACTED]'s shy, so [REDACTED] [REDACTED] would nod or shake [REDACTED] head. It was never really directly talked about that much until you and I started with it

*Id.* at 13-15.

On or about August 16, 2020, Codefendant Emineth was [REDACTED] [REDACTED] including Minor 1. *Id.* at 15. Defendant and Codefendant Emineth engaged in graphic discussion regarding sexual intercourse with one another, Minor 1, and other potential teenage [REDACTED]. ECF No. 100, ¶ 19. Codefendant Emineth offered to take images of Minor 1. *Id.* Thereafter, Defendant directed Codefendant Emineth to take specific sexual abuse images of

1 Minor 1, to include images of Minor 1's unclothed genitals, and Codefendant  
 2 Emineth engaged in the sexual abuse of Minor 1. *Id.*, ¶¶ 19-26. Codefendant  
 3 Emineth abused Minor 1 and captured said abuse in the scenarios asked for by  
 4 Defendant. *Id.*

5 Forensic examinations of Codefendant Emineth's Samsung cellular phone  
 6 and Defendant's iPhone revealed child pornography images that corresponded to,  
 7 and were consistent with, these Defendant and Codefendant Emineth's  
 8 communications. ECF No. 100, ¶¶ 19-25, 39. Among these images were lewd and  
 9 lascivious images that constitute child pornography under federal and/or state law,  
 10 depicting the following:

- 11 - Minor 1's unclothed anus and vagina;
- 12 - Minor 1's bare breasts;
- 13 - Minor 1 licking her own bare breast;
- 14 - Codefendant Emineth licking Minor 1's bare breast;
- 15 - Minor 1's unclothed vagina being digitally penetrated by Minor 1;
- 16 - Codefendant Emineth's hand next to Minor 1's vagina;
- 17 - Codefendant Emineth inserting his finger into Minor 1's vagina;
- 18 - Minor 1 with her hand around Codefendant Emineth's nude, erect penis;
- 19 - Minor 1 licking Codefendant Emineth's nude, erect penis; and
- 20 - Codefendant Emineth's penis in Minor 1's mouth.

21 *Id.*

22 On June 7, 2021, Minor 1 walked into the Kennewick Police Department  
 23 and disclosed that Codefendant Emineth had sexually and physically abused [REDACTED]  
 24 [REDACTED] 12 years old. *Id.*, ¶ 31. During the investigation that followed,  
 25 Minor 1 disclosed Defendant's conduct, including the sexual abuse she perpetrated  
 26 against Minor 1. *Id.*, ¶¶ 31-32. Investigators located and seized electronic devices  
 27 belonging to Defendant and Codefendant Emineth, including their respective  
 28

cellular phones. *Id.*, ¶¶ 33, 35, 40. Defendant's iPhone and Codefendant Emineth's Samsung phones contained messages between the two, sexually explicit images of Minor 1, and communications between Defendant and Minor 1. *Id.*, ¶¶ 39-40.

## **I. Offense Level & Criminal History**

The government agrees Defendant's offense level is 41, with a Criminal History Category I, and a resulting Guideline provision of 324 months – 405 months. The government has no objection to the Presentence Investigation Report (PSIR). The government has requested restitution information from Minor 1. The government requests the Court set a restitution hearing date at the sentencing hearing.

## **II. Sentencing Factors Under 18 U.S.C. § 3553(a)**

### **A. The Nature and Circumstances of the Offense and the History and Characteristics of the Defendant:**

The circumstances of the offense involve Defendant sexual abusing and conspiring to produce images depicting the sexual of abuse of a child [REDACTED]. Defendant's abuse of this child began in a disturbing and incomprehensible manner. Defendant believed there was something afoot between her boyfriend, Codefendant Emineth, [REDACTED], [REDACTED]. When confronted, Codefendant Emineth admitted that he was sexually abusing [REDACTED].

Defendant's actions thereafter defy all logic and standards of human decency. Defendant did not report Codefendant's [REDACTED] sexual abuse of Minor 1 to law enforcement or any other person or entity. She did not end her relationship with Codefendant Emineth, despite the fact that Codefendant's sexual abuse of Minor 1 [REDACTED] of Defendant's [REDACTED] at the time.



1 Instead, Defendant chose to perpetrate her own abuse of Minor 1. To join  
 2 Codefendant Emineth as he sexually violated [REDACTED] and documented  
 3 his abuse. Indeed, Defendant did more than participate with Codefendant Emineth.

4 On or about August 16, 2020, Defendant directed the sexual abuse and  
 5 production of images depicting such abuse of Minor 1. The text messages located  
 6 on Codefendant Emineth's phone tell the story, one message at a time, of  
 7 Defendant's instructions to Codefendant Emineth on how to abuse, and capture  
 8 said abuse, of Minor 1 to satisfy Defendant's own sexual desires.

9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Defendant	Look at [REDACTED] serious face! Omg so dirty! Yassss me likey More more!!! Hahaha oh wow you went [REDACTED] haha too bad you didn't touch [REDACTED] get [REDACTED] wet! Gahhh Smacked that assss Mmmmmm Had [REDACTED] bent over and rubbing [REDACTED] sweet pussy
	Codefendant Emineth	Those are all I got right now unless you want me to ask [REDACTED] to pose again lol I told [REDACTED] what you were doing with them
	Defendant	Would be nice if [REDACTED] moved the shorts to the side so I can see that pussy haha..... Omg if [REDACTED] do it, I want one with your fingers touching and then another with them inside [REDACTED] !!!.....
	Codefendant Emineth	Okay...we are [REDACTED] [REDACTED] said yes. What would you like pics of? [REDACTED] says [REDACTED] s tired though
	Defendant	OMG AWWWW tell [REDACTED] it's quick Mmmmmmm [REDACTED] with shorts to side showing [REDACTED] pussy

1		Spread [REDACTED] lips
2		Your hand
3		And then you fingering [REDACTED]
4		And maybe if you can [REDACTED] holding your cock
5		And if [REDACTED]'s ok [REDACTED] licking it omg
6		THIS IS FUCKING AWESOME
7	Codefendant Emineth	And you want all those? Are you sure?
8	Defendant	Yassssssssssssssssss
9		Yes, if you're ok woth it
10	Codefendant Emineth	Yes, I'm okay with it
11		Hold on
12	Defendant	This gives us something for later!!! Get us worked up to treat [REDACTED] good soon
13		Ok!!!
14	Codefendant Emineth	Okay...we have some of all of that.. [REDACTED] spreading herself and moving [REDACTED] shorts, [REDACTED] tits, [REDACTED] fingering [REDACTED], me fingering [REDACTED], [REDACTED] grabbing my cock, licking my cock, and sucking my cock. Do you want anything else?
15		
16	Defendant	Omg no that's good unless you can think of something else lol
17		You sucking [REDACTED] tits
18	Codefendant Emineth	Okay. I can get that too. Hold on
19	Defendant	Y'all are so good to me
20	Codefendant Emineth	Okay love! We're done and gonna go [REDACTED] unless you need anything else
21		
22	Defendant	No sweetie that's fine with me unless you want [REDACTED] to do more to help with your hard cock
23		Fuck me running I'm so turned on
24		I fucking love you and [REDACTED] hahah
25		This is soooo awesome!!!
26		I feel GRRRREAT!!!!
27		
28		

1	Codefendant Emineth	Awww we love you too and can't wait to play with you!
2	Defendant	Yassss I'm drooling haha
3	Codefendant Emineth	████ is tired and I wanna wait for you anyway so we are gonna go back
4		downstairs now
5	Defendant	Ok loves, tell █████ thank you sooo much and that I won't forget to reward
6		████ for being such a █████
7	Codefendant Emineth	My dick felt good in █████ hands and mouth though
8	Defendant	OMG YES I KNOWWWW
9		I know and I love that!
10		Omg
11		I need the pics so I can finish I'm so fucking turned on
12	Codefendant Emineth	Wanted to cum on █████ face and take a picture of that for you
13	Defendant	Then we can chat on the phone baby
14		Omg you could have!!!
15	.....	.....
16	Codefendant Emineth	Are you ready? Still playing with yourself?
17	Defendant	Yes I am
18		And ready
19	Codefendant Emineth	<b><i>Sent three image files.</i></b>
20	Defendant	OMG SO FUCKING HOT
21		YASSSS BOOBIE GRAB
22	Codefendant Emineth	<b><i>Sent one image file.</i></b>
23	Defendant	Titties freeee
24	Codefendant Emineth	<b><i>Sent one image file.</i></b>
25	Defendant	Lick it!!! Yasss
26	Codefendant Emineth	<b><i>Sent one image file.</i></b>
27	Defendant	Omg yasssss
28		

1		Lick it baby!
2		Suck [REDACTED] titties!!!!
3	Codefendant Emineth	<i>Sent one image file.</i>
4	Defendant	Pussy pussy everywhere!!!! Yassss and [REDACTED] tongue!!!! Omg
5	Codefendant Emineth	<i>Sent one image file.</i>
6	Defendant	Omg [REDACTED] face!!!! Fuck your [REDACTED] Omg yasss
7	Codefendant Emineth	<i>Sent two image files.</i>
8	Defendant	SPREAD EM YASSS
9	Codefendant Emineth	<i>Sent one image file.</i>
10	Defendant	[REDACTED] wet!!!! Omg
11	Codefendant Emineth	<i>Sent two image files.</i>
12	Defendant	Yassss your hand! You're involved yassss finger that [REDACTED] [REDACTED] face is perfect
13	Codefendant Emineth	<i>Sent one image file.</i>
14	Defendant	You tell [REDACTED] to cum here baby omg yasss
15	Codefendant Emineth	<i>Sent three image files.</i>
16	Defendant	Omg innocent eyes looking up grabbing your cock yasss
17	Codefendant Emineth	<i>Sent one image file.</i>
18	Defendant	LICK ITTTTTTT OMG YES
19	Codefendant Emineth	<i>Sent one image file.</i>
20	Defendant	You know that felt amazing Omg yes
21	Codefendant Emineth	<i>Sent one image file.</i>
22	Defendant	SUCK IT OMG YASSS
23		
24		
25		
26		
27		
28		

1	Codefendant Emineth	<i>Sent one image file.</i>
2	Defendant	Fuck yeah so hot yessss
3		BABY!!!! YOU'RE THE FUCKING BEST!!!!
4		TAKE IT [MINOR 1]!!!!
5		I'm gonna cum hard
6	Codefendant Emineth	That's what we got!
7	Defendant	Hold on
8	Codefendant Emineth	Lol just took photos of everything you wanted

9 ECF No. 87, 15- 23.

10 It is clear from these messages that Defendant was not merely a participant in  
 11 Codefendant Emineth's abuse and production child sexual abuse images of Minor  
 12 1- rather, she, like Codefendant Emineth, was an active instigator and director.

13 Defendant and Codefendant Emineth's communications also revealed future  
 14 plans to continue to sexually abuse Minor 1, as well as other minors, to include  
 15 Defendant's [REDACTED].

16 **B. The Need for the Sentence Imposed to Reflect the Seriousness of the Offense,**  
 17 **Promote Respect for the Law and to Provide Just Punishment**

18 The government asks that the Court sentence Defendant to a term of  
 19 imprisonment of 30 years for conspiring with Codefendant Emineth to produce  
 20 child pornography images of Minor 1, and 20 year for the receipt of said images.  
 21 The seriousness of Defendant's conduct cannot be overstated. As previously  
 22 described, Defendant was afforded the opportunity [REDACTED]  
 23 [REDACTED] of sexual and physical abuse. Defendant's conduct,  
 24 encouraging and engaging in the sexual abuse of Minor 1 herself, is reprehensible  
 25 and far from aberrant, as demonstrated in her communications with Codefendant  
 26 Emineth.  
 27  
 28

Further, Defendant engaged in communications with Minor 1 separate and apart from Codefendant Emineth, wherein she discussed engaging in sexual acts with Minor 1. *See* Exhibit A, 9-26. These communications by Defendant with Minor 1 are abhorrent, due to the manner in which they seek to manipulate Minor 1. To any adult, the intent in these communications is obvious- to make Minor 1 feel comfortable, and as though she has choice in whether to participate in the sexual abuse committed by Defendant and Codefendant. *See* Exhibit D (documenting Codefendant Emineth's practice of giving Minor 1 a choice between two types of sexual touching). In actuality, Minor 1 [REDACTED] child whose [REDACTED] was imprisoned and whose [REDACTED] systematically sexually and physically abused her for years [REDACTED]. Minor 1 [REDACTED].

But Defendant sought to foster a dialogue with Minor 1 wherein Defendant was a trusted adult and confidante. Conducting abuse in this manner manifested an environment wherein Defendant professed to give Minor 1 a "choice" as to how and when [REDACTED] would be sexually abused. Such manipulation is particularly pernicious because the goal is clear- to make a child feel complicit in the sexual abuse they have suffered, as if they have asked for it. Such a tact is clear in the below text messages between Defendant and Minor 1 in the days leading up to, and immediately after, Defendant's direction of the child pornography images in the instant case:

August 8, 2020	
Defendant	Is someone going through withdrawals?
Minor 1	haha I've thought about it
Defendant	Yeah? How often? Or just recently?
Minor 1	here and there lol
Defendant	So cryptic haha But that's ok, we shall loosen ya up one way or another

1	Minor 1	I just had to look that word up hahaha
2	Defendant	Hahaha see I can teach ya more than one think hahah
3	Minor 1	and jus whenever I get in the mood
4	Defendant	Ahhh I see
5		And when is that usually!
6	Minor 1	idrk every once in a while haha
7	Defendant	Hahaha you're so cute
8		Well, can you do me a favor
9	Minor 1	whats that
10	Defendant	The next time you do get in that modd, mention something
11		haha
12		You never know! I'm always available to get the job done
13		hahaha, and I'm sure you know who would be too
14	Minor 1	I'm still kinda shy haha but I will try my best
15		if you just ask me tho ill be honest just don't take it the
16		wrong way if im not in the mood yk
17	Defendant	Oh I know tehehe, but just know there is never a rush, it's
18		at your pace and we are very patient! Just want to reassure
19		you that we care. But I will let you know always that we
20		well be here when you're ready to even talk!
21	Minor 1	okay good to know :)
22	Defendant	Oh lol yeah your last message is totally understandable!
23		No issues there. If you're not in the mood then that should
24		be respected
25		Yasss
26	Minor 1	haha okay
27	Defendant	Just want you secure in yourself and everything!
28	Minor 1	I'll do my best to let you know but if your ever wondering
		then jus ask haha
	Defendant	Lol yasss I agree!!!! I shall not have any more fear hahaha

1		But yeah if you tingly and want stuff then hell don't shut
2		up about it haha, that's how you learn the technique of sexy
3		talk hahaha
4	Minor 1	lol the technique
5		okay hehe
6	Defendant	Teheheh
7		Hey you learn how to impress others when you do it often
8		haha just saying
9		Plus we won't judge or make fun! That's what's so
10		awesome about this haha you can be comfortable and get
11	Minor 1	you're right haha
12	Defendant	See we got you boo haha
13	Minor 1	lol ik I'm just gettubg used to it
14	Defendant	Yeah, I hear ya. And it doesn't make it any better with you
15		getting used to it when we don't say anything either
16		haha...just know 100% we are NOT trying to pressure you.
17		We value your honesty and only want the best of the best
18	Minor 1	I appreciate it hehe
19	Defendant	Always love
20	August 10, 2020	
21	Defendant	Been thinking about you a bit lol...how you doin?
22	Minor 1	been good
23	Defendant	Remember that convo we had a few days ago? Any
24		interest in that happening soon?
25	Minor 1	yeah
26	Defendant	Wohooooooooo
27		Sweet! Sorry was driving haha, welllllll; the suspense is
28		killing me but I think I'll manage hahaha. Well any hints



1		of any interest would be nice like shakin that cute booty
2		haha or batting your eyes 500 times lmfaoo...ya know the
3		cues haha or just a wink with a smile hahaha and nod...just
4		trying to give ideas hahaha
5		FUCK YEAH
6		Thank youuuuuuuuu
7		You're the bestest!!!!
8	Minor 1	hehe of course
9	August 16, 2020	
10	Defendant	Sooo
11		You get some good nights sleep....get ready for later lol
12		gonna give ya a nice treat tehehe
13	Minor 1	cant wait
14	Defendant	Neither can iiiiiiiii
15	Minor 1	just let me know if you need anything else
16	Defendant	Always
17		Your [REDACTED] is hyper haha he is getting blue so I told him if
18		[REDACTED] sleeping then I guess he'll have to do something with
19		what he sent me....but I mean if you're ok with it maybe
20		can help him by playing with yourself and he can play with
21		himself...whatever to help teheheh, I got off multiple to ya
22		hahah fuck yeah I did
23	Minor 1	lol well imgoing to [REDACTED]
24	Defendant	Oh he is too, probably won't take long hahaha
25		Up to you though
26		Just a thought teheheh
27		You could surprise him while he's jacking off hahaha
28	Minor 1	I'm exhausted, maybe another time tho
	Defendant	Okies! That's alright! We will have him use his
		imagination tehehe

1		You sleep tight
2	Minor 1	okayy

3 See Exhibit A at 9-26.

4 On August 18, 2020, Minor 1 attempted suicide. See ECF No. 100, ¶ 32; see  
 5 also Exhibit B. The devastation caused by Defendant's conduct is incomparable  
 6 and requires a sentence commensurate with her conduct. The government's  
 7 recommendation of 30 years imprisonment (Count 1) and 20 years (Count 4), to be  
 8 followed by a lifetime term of supervised release, is sufficient but not greater than  
 9 necessary to recognize the severity of Defendant's conduct and provide just  
 10 punishment.

11 C. The Need for the Sentence Imposed to Afford Adequate Deterrence to  
 12 Criminal Conduct:

13 Defendant has no scorable criminal history and is properly a Criminal History  
 14 Category I. However, the scope of Defendant's conduct, and her discussions with  
 15 Codefendant Emineth regarding their future plans to sexually abuse other minors,  
 16 warrant the sentence requested and a lifetime term of supervised release. Such a  
 17 sentence is sufficient, but not greater than necessary, to deter future criminal  
 18 conduct.

19 D. The Need for the Sentence Imposed to Protect the Public from Further Crimes  
 20 of Defendant

21 Given the professed plans of Defendant as to the future sexual abuse of [REDACTED]  
 22 [REDACTED] and other minors (ECF No. 100, ¶ 42), the best way to protect Defendant's  
 23 [REDACTED] and others in the community is to limit Defendant's access to minors.  
 24 This is largely provided for in Suggested Special Conditions 2 and 3. ECF No. 100  
 25 at 30. However, the government believes the factual underpinnings of this case  
 26 provide ample support for this Court to preclude Defendant from contact with [REDACTED]  
 27 [REDACTED]  
 28

1 Where a district court imposes supervised release “conditions that implicate a  
2 ‘particularly significant liberty interest,’” the district court must adhere to  
3 “‘enhanced procedural requirement[s].’ ” *United States v. Wolf Child*, 699 F.3d  
4 1082, 1091 (9th Cir. 2012) (quoting *United States v. Stoterau*, 524 F.3d 988, 1005  
5 (9th Cir. 2008)). A condition implicating the “fundamental liberty interest in  
6 having contact with one's children” triggers these enhanced procedural  
7 requirements. *Wolf Child*, 699 F.3d at 1091-92. A district court must support any  
8 decision to impose such a requirement on the record with evidence that the  
9 suggested condition is necessary to accomplish any of the factors articulated in 18  
10 U.S.C. § 3583(d) and requires no greater deprivation of liberty than is reasonably  
11 necessary. *Id.* at 1090. The court must “undertake an individualized review of  
12 [each] person and the relationship at issue,” including “all the relevant facts  
13 surrounding the relationship.” *Id.* at 1093–94 (quoting *United States v. Napulou*,  
14 593 F.3d 1041, 1047 (9th Cir. 2010)).

15 Here, Defendant actively discussed sexually abusing her [REDACTED] with  
16 Codefendant Emineth in the course of, and planning for, their actual sexual abuse  
17 of Minor 1. ECF No. 100, ¶ 42. As previously described, Defendant lauded  
18 [REDACTED]. ECF No. 100, ¶ 36, 42. At the time, Defendant had full custody  
19 of all [REDACTED]. *Id.*, ¶ 94. The evidence in this case also included  
20 Defendant in her own residence, masturbating with a vibrator while a person that  
21 investigators believed to be [REDACTED], was present at the sink behind her. *See*  
22 ECF No. 100, ¶ 40; *see also* Exhibit C, a sanitized version of these images.  
23 Further, during the presentence investigation, Defendant represented that she was  
24 legally able to have contact with [REDACTED]. ECF No. 100, ¶ 94. This was not  
25 borne out by the order associated with Defendant’s pending case in Benton County  
26 Superior Court. *Id.* Finally, Defendant also possessed concerning images of  
27 Codefendant Emineth’s [REDACTED]. *Id.*, ¶ 40.  
28

1 “The existence of a constitutionally protected liberty interest ... does not  
 2 render impermissible any condition that would interfere with the parent-child  
 3 relationship.” *Wolf Child*, 699 F.3d at 1092 (quoting *United States v. Davis*, 452  
 4 F.3d 991, 995 (8th Cir.2006)). Here, the inclusion of Defendant’s [REDACTED] in  
 5 Suggested Special Condition 2 serves multiple goals of 18 U.S.C. § 3583(d) by  
 6 deterring Defendant from sexually abusing her [REDACTED], or allowing others,  
 7 such as Codefendant Emineth to do the same, and protecting Defendant’s [REDACTED]  
 8 from Defendant. This deprivation is no greater than necessary to ensure  
 9 Defendant’s [REDACTED] are able to grow up without suffering the same sexual abuse  
 10 Defendant wrought upon Minor 1.

11 E. The Need for the Sentence Imposed to Provide Defendant with Needed  
 12 Educational or Vocational Training, Medical Care, or Other Correctional  
 13 Treatment in the Most Effective Manner:

14 Defendant has advised that she is interested in furthering her education. The  
 15 United States submits that such opportunity should be available at whatever  
 16 Bureau of Prisons facility Defendant serves her sentence.

17 F. The Kinds of Sentences Available:

18 Defendant is subject to a sentence involving a term of imprisonment. The  
 19 offenses to which Defendant pled guilty carry a mandatory minimum sentence of  
 20 fifteen- and five-years imprisonment, respectively, by statute.

21 G. The Kind of Sentence Contemplated by the Sentencing Guidelines:

22 The Sentencing Guidelines contemplates a term of imprisonment. The United  
 23 States agrees that only a significant term of imprisonment is appropriate based on  
 24 the facts of this case.

25 H. Any Pertinent Policy Statements Issued by the Sentencing Commission:  
 26  
 27  
 28

1 There are no pertinent policy statements applicable in this case, aside from the  
2 USSG themselves which suggest only a significant term of incarceration is  
3 appropriate.

4 I. The Need to Avoid Unwarranted Sentence Disparity Among Defendants with  
5 Similar Records Who have been Found Guilty of Similar Conduct:

6 The United States' proposed sentence entails a downward variance from the  
7 otherwise applicable USSG range. Defendant is subject to a sentence similar to  
8 others similarly situated.

9  
10 Dated: December 28, 2023.

11 Vanessa R. Waldref  
12 United States Attorney

13 s/ Laurel J. Holland  
14 Laurel J. Holland  
15 Assistant United States Attorney  
16  
17  
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19  
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**CERTIFICATE OF SERVICE**

I hereby certify that on December 28, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

John Gary Metro

s/ Laurel J. Holland

Laurel J. Holland

Assistant United States Attorney

GOVERNMENT'S  
EXHIBIT A



**KENNEWICK POLICE DEPARTMENT**  
**Digital Device Forensic Report**

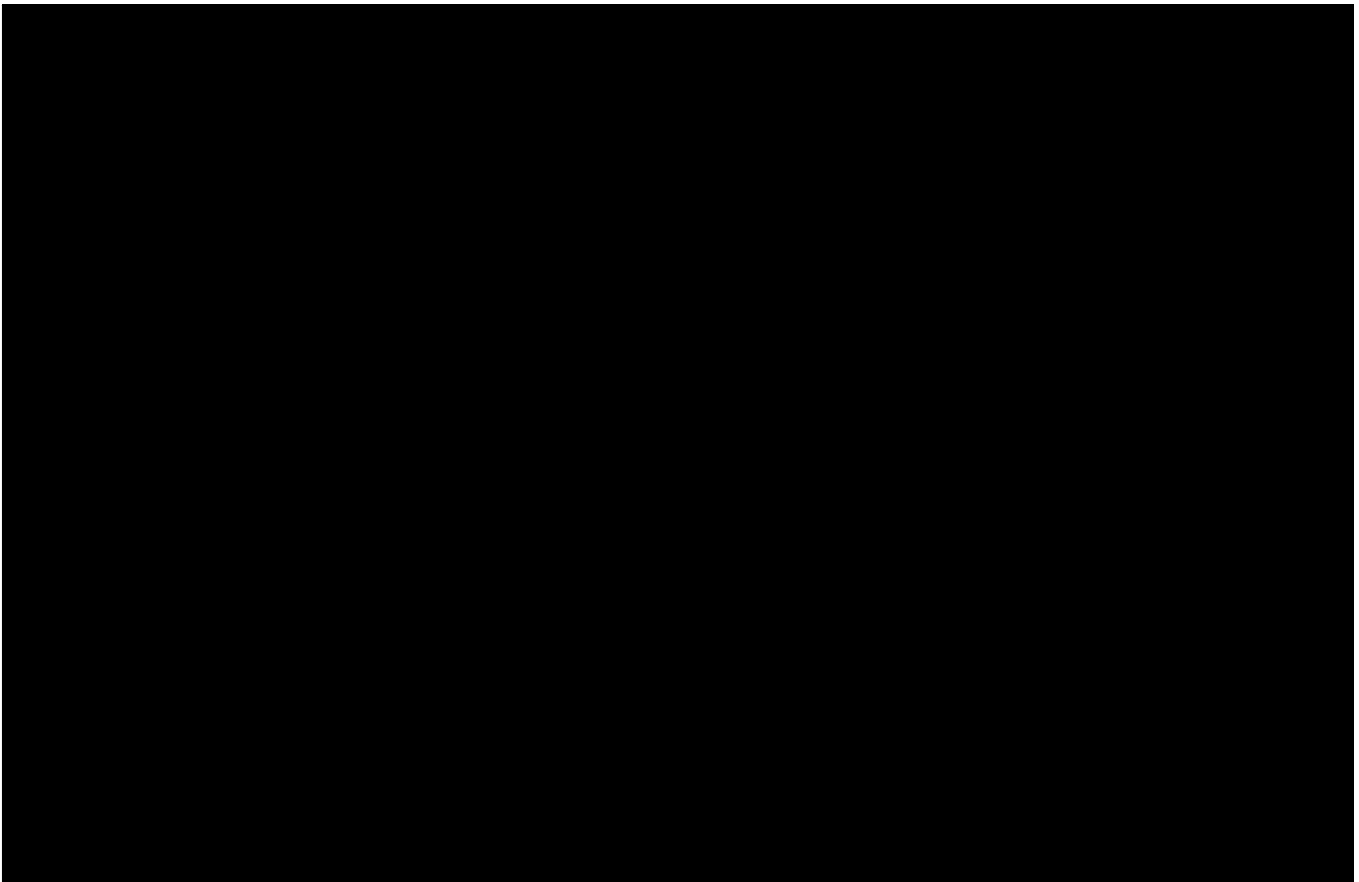


Det. Brian Pochert / K35  
Case Number: 21-22358  
Cellular Phone examination  
Date: 07/20/2022

Item Examined:  
KPD item #: M1  
Make and Model: Apple iPhone 11 Pro Max  
S/N: FCLC30H4N70H  
MEID / IMEI: 353906109673930  
Description: Black Smart Phone

Equipment Used:  
Cellebrite Physical Analyzer (software)  
Griffeye Analyze DI (software)  
Grayshift Gray Key S/N 16ffacd5d451230d (hardware)  
Cellebrite Advanced Services

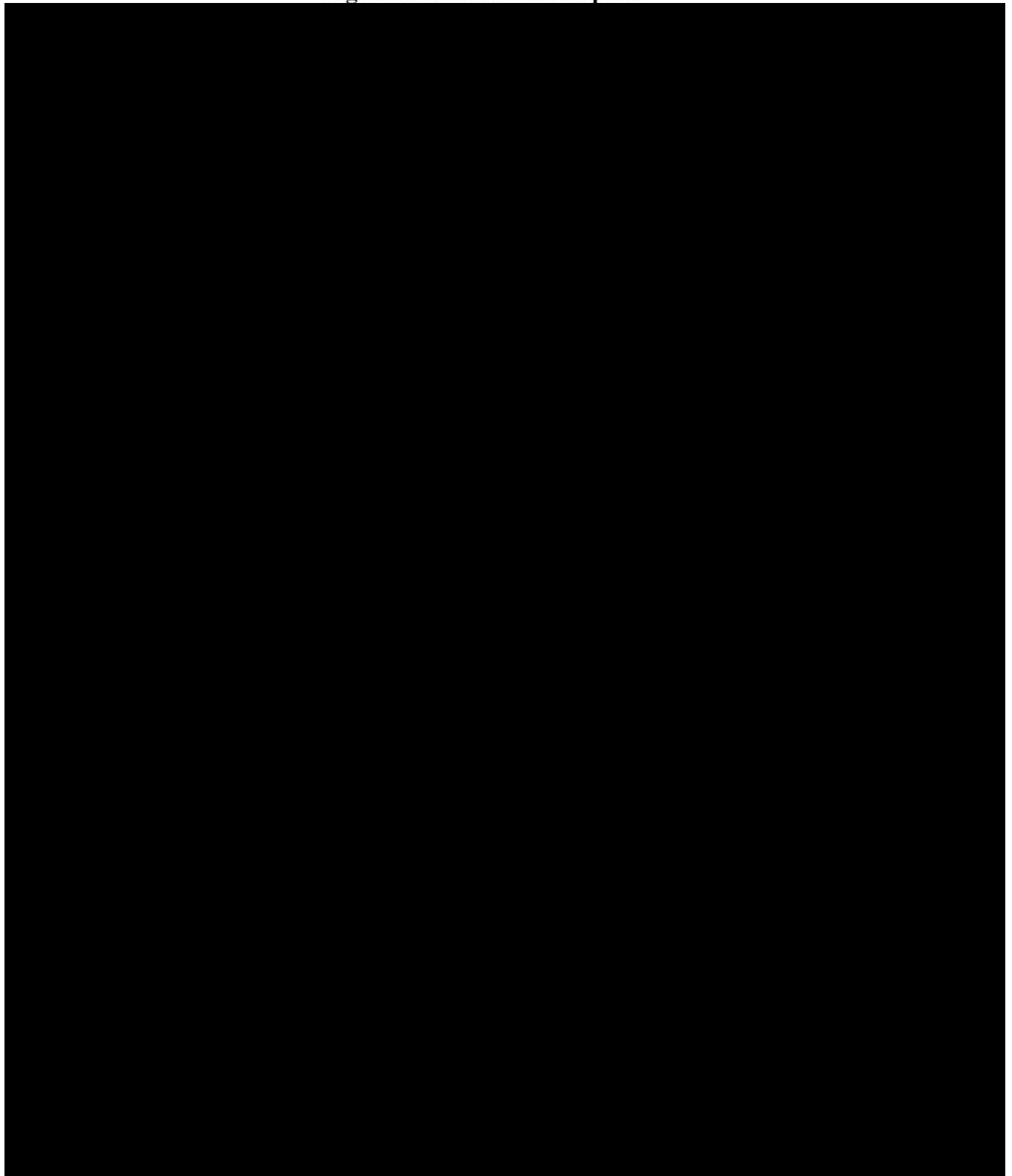
See additional reports for versions of software and hardware





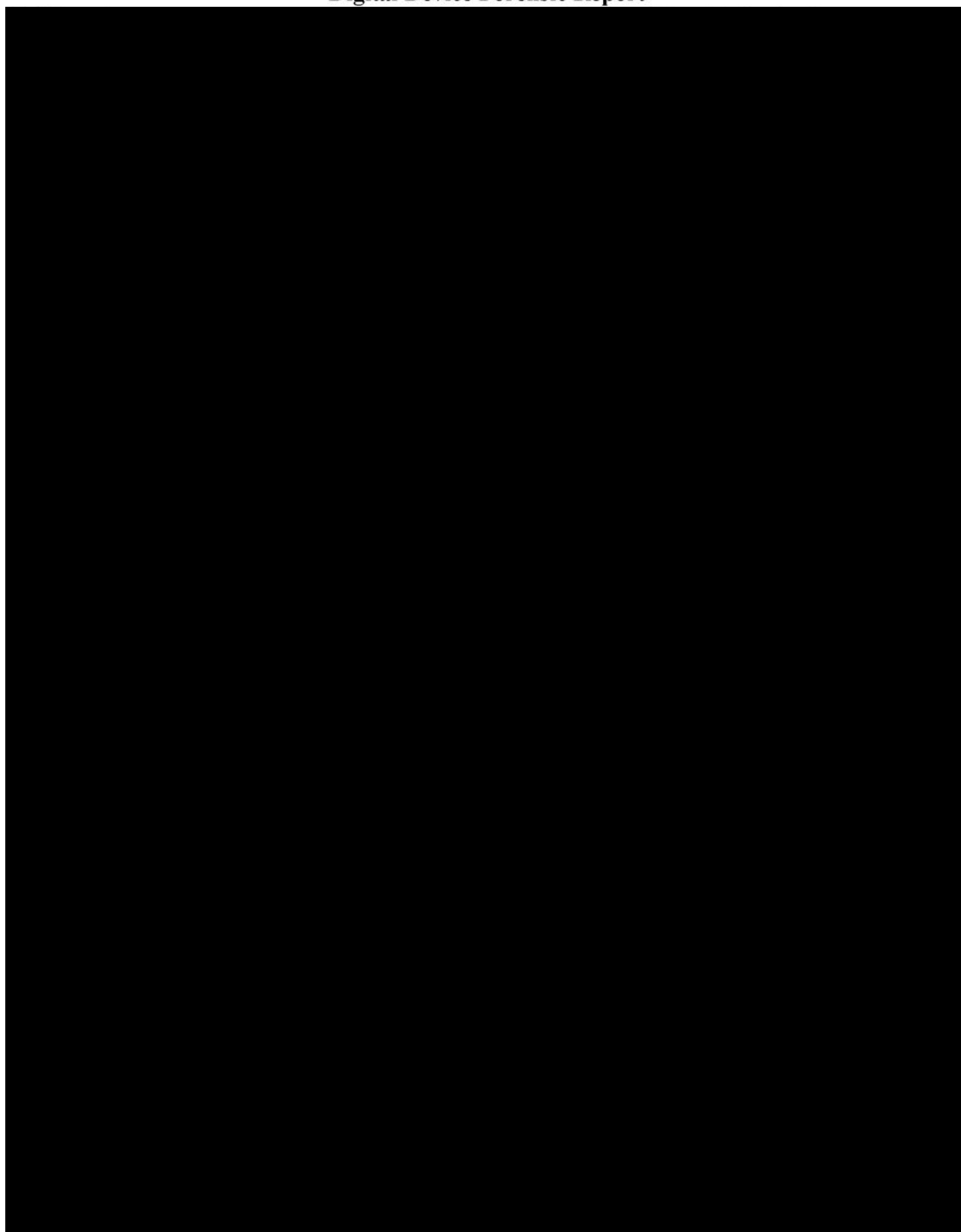


**KENNEWICK POLICE DEPARTMENT**  
**Digital Device Forensic Report**



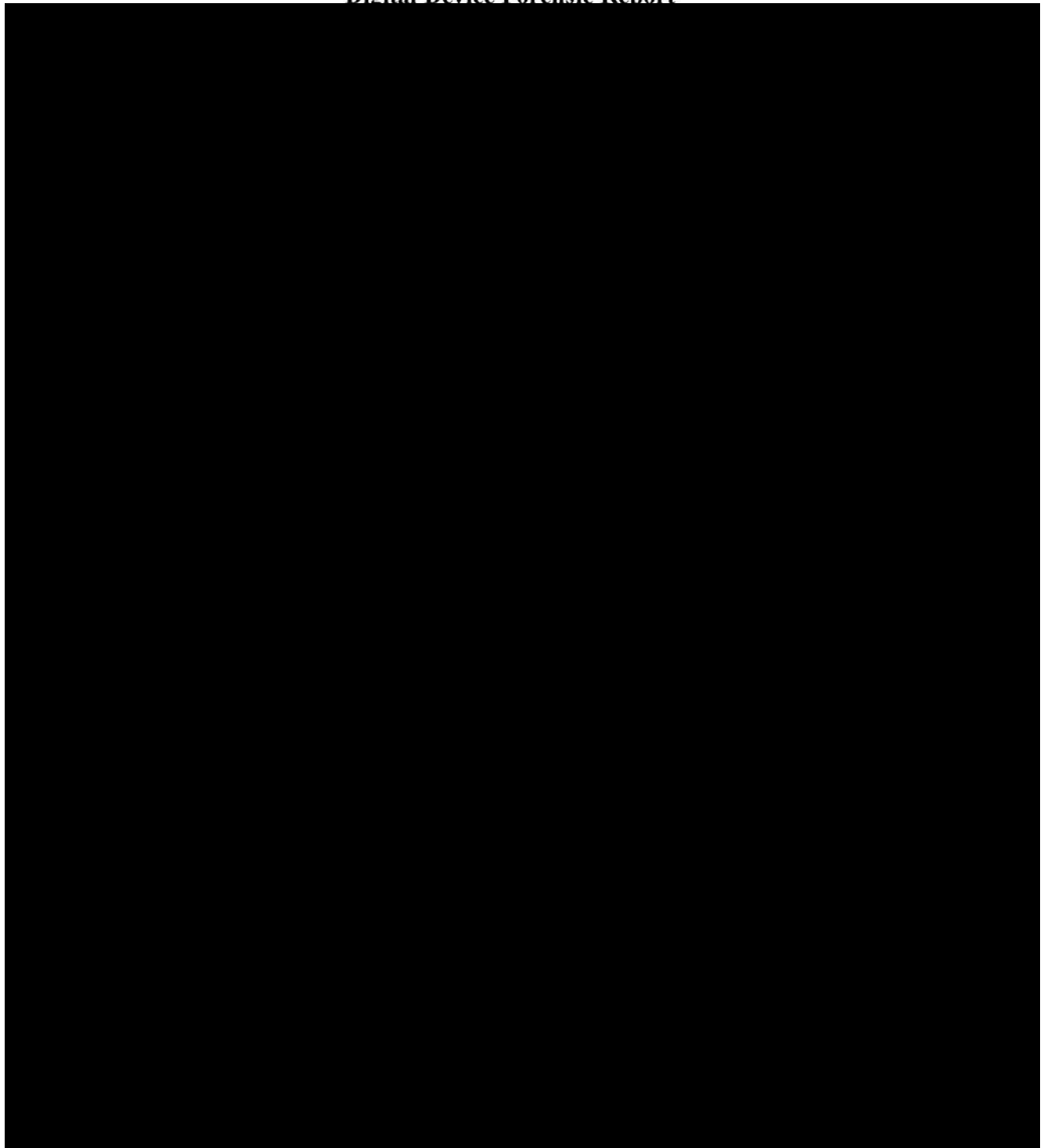


**KENNEWICK POLICE DEPARTMENT**  
**Digital Device Forensic Report**





**KENNEWICK POLICE DEPARTMENT**  
**Digital Device Forensic Report**



BLP/1135

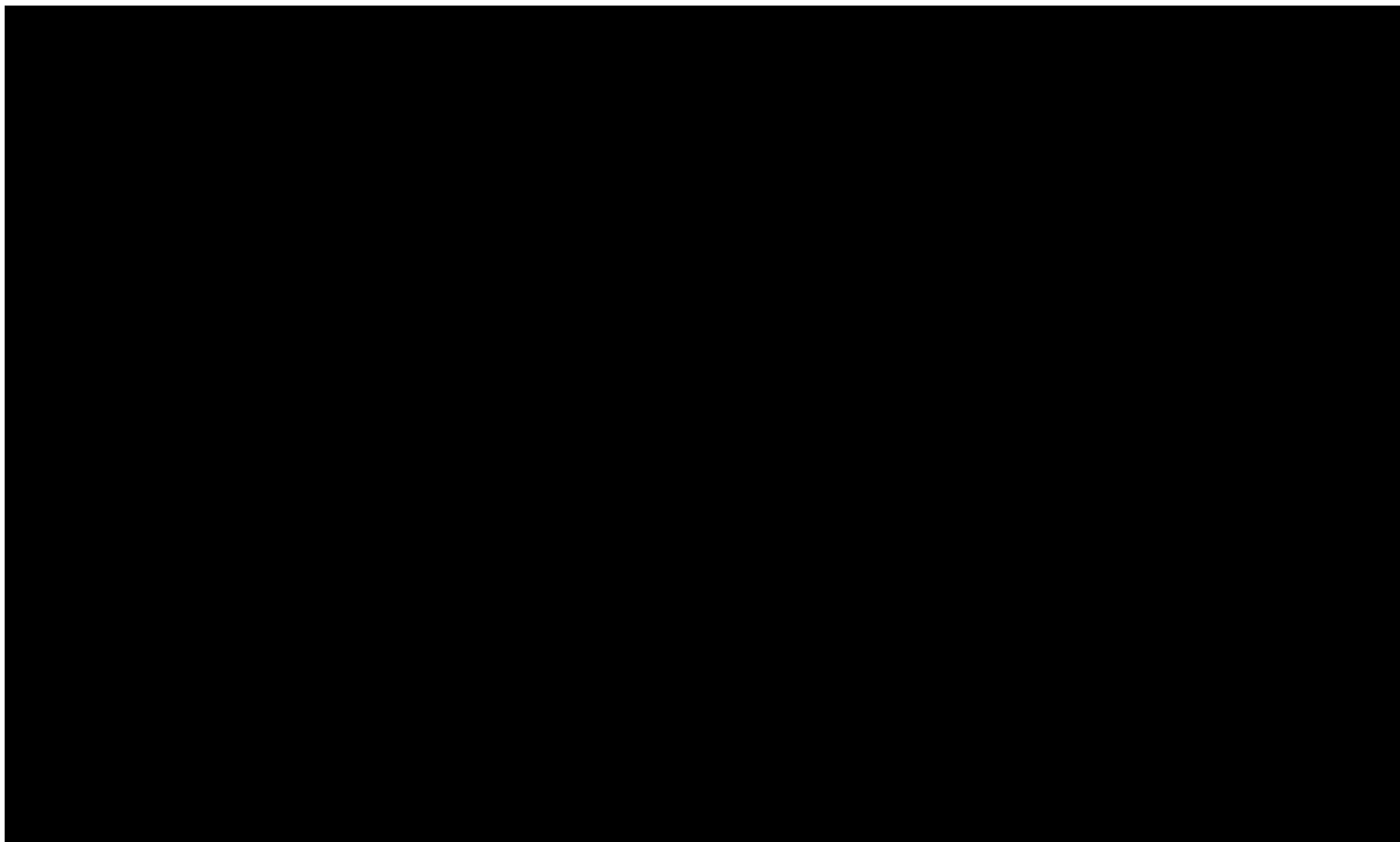


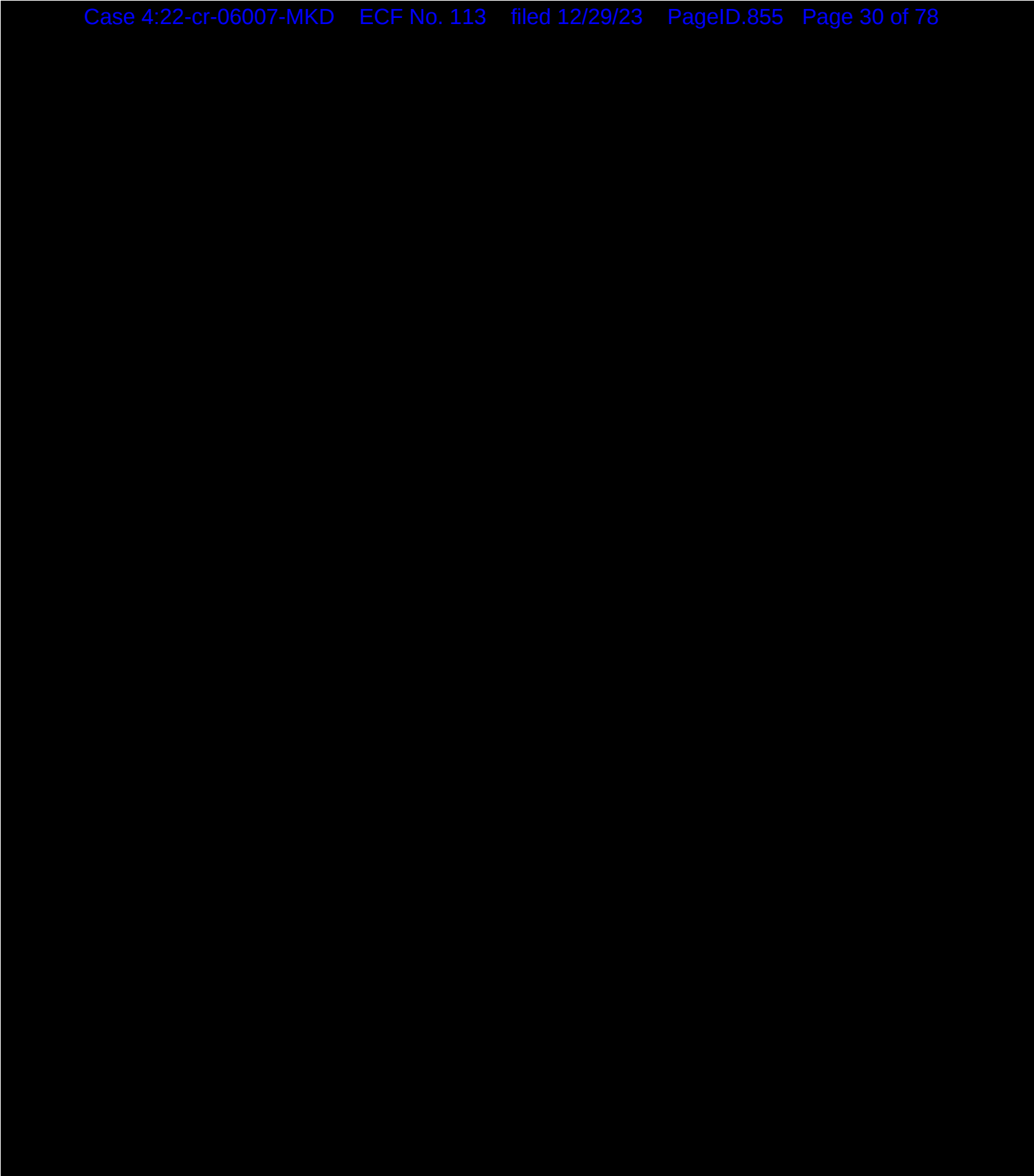


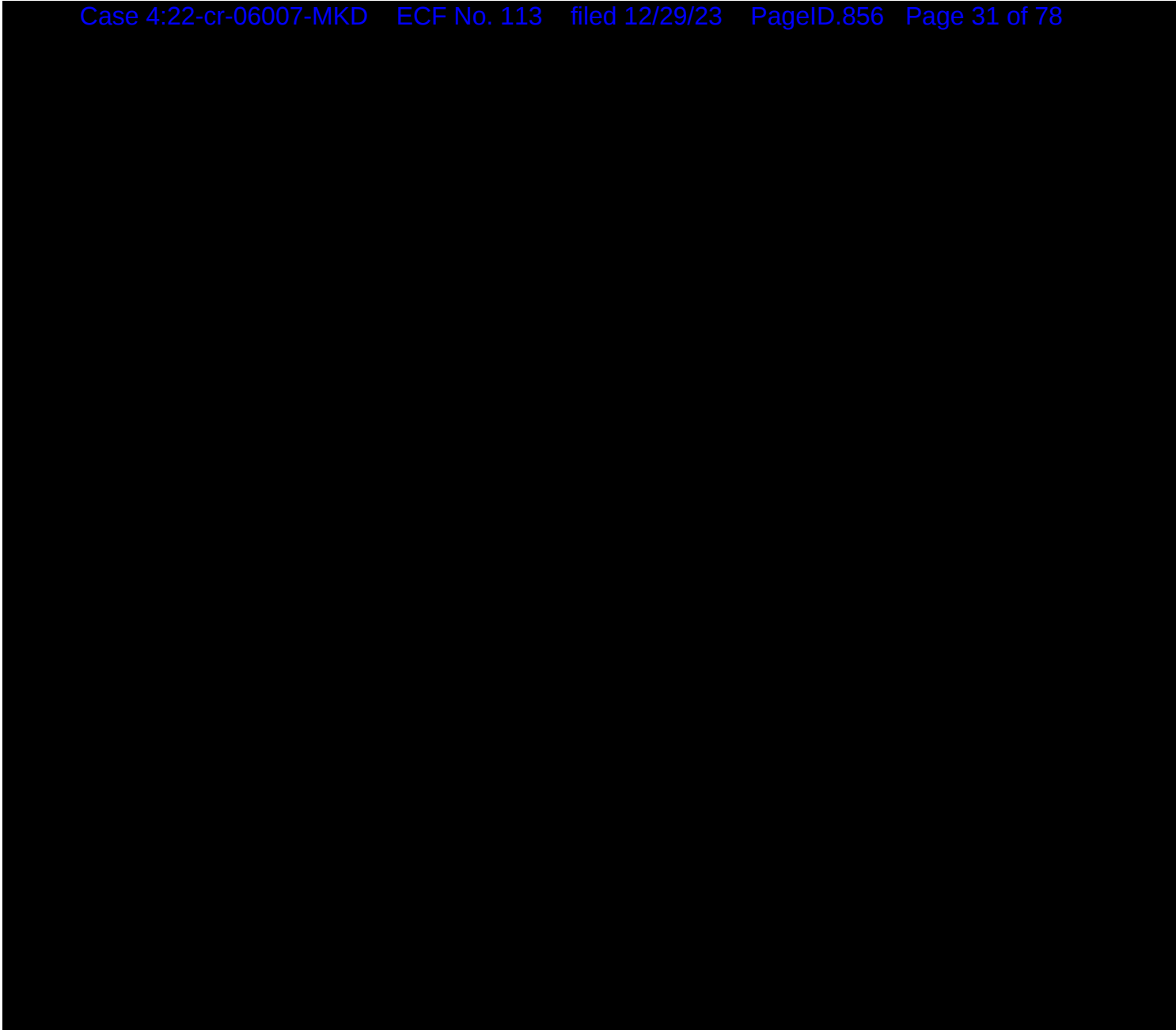
**Cellebrite**  
www.cellebrite.com

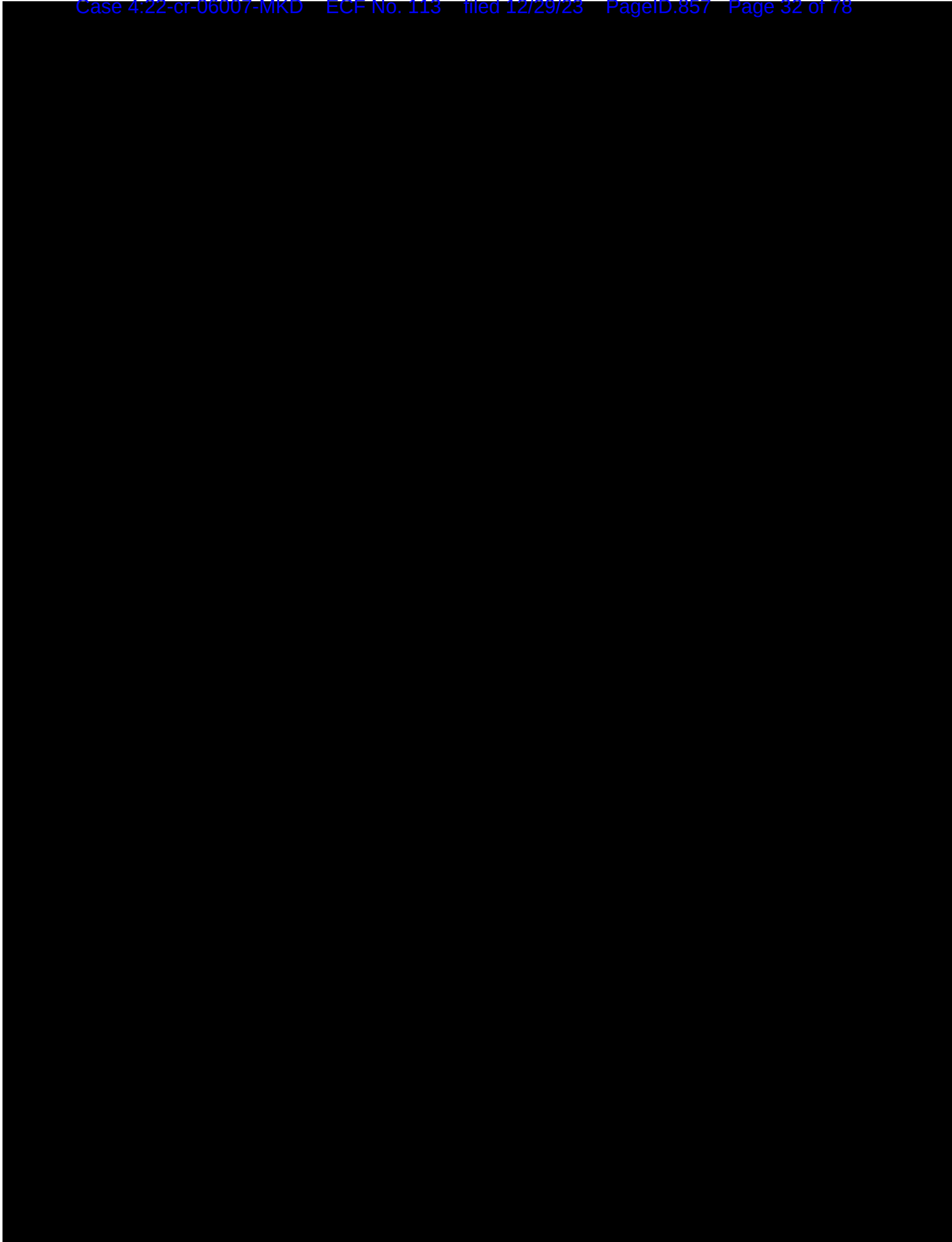
Extraction Report - Apple iPhone

**Kennewick Police Department**  
*"Committed to Your Safety"*

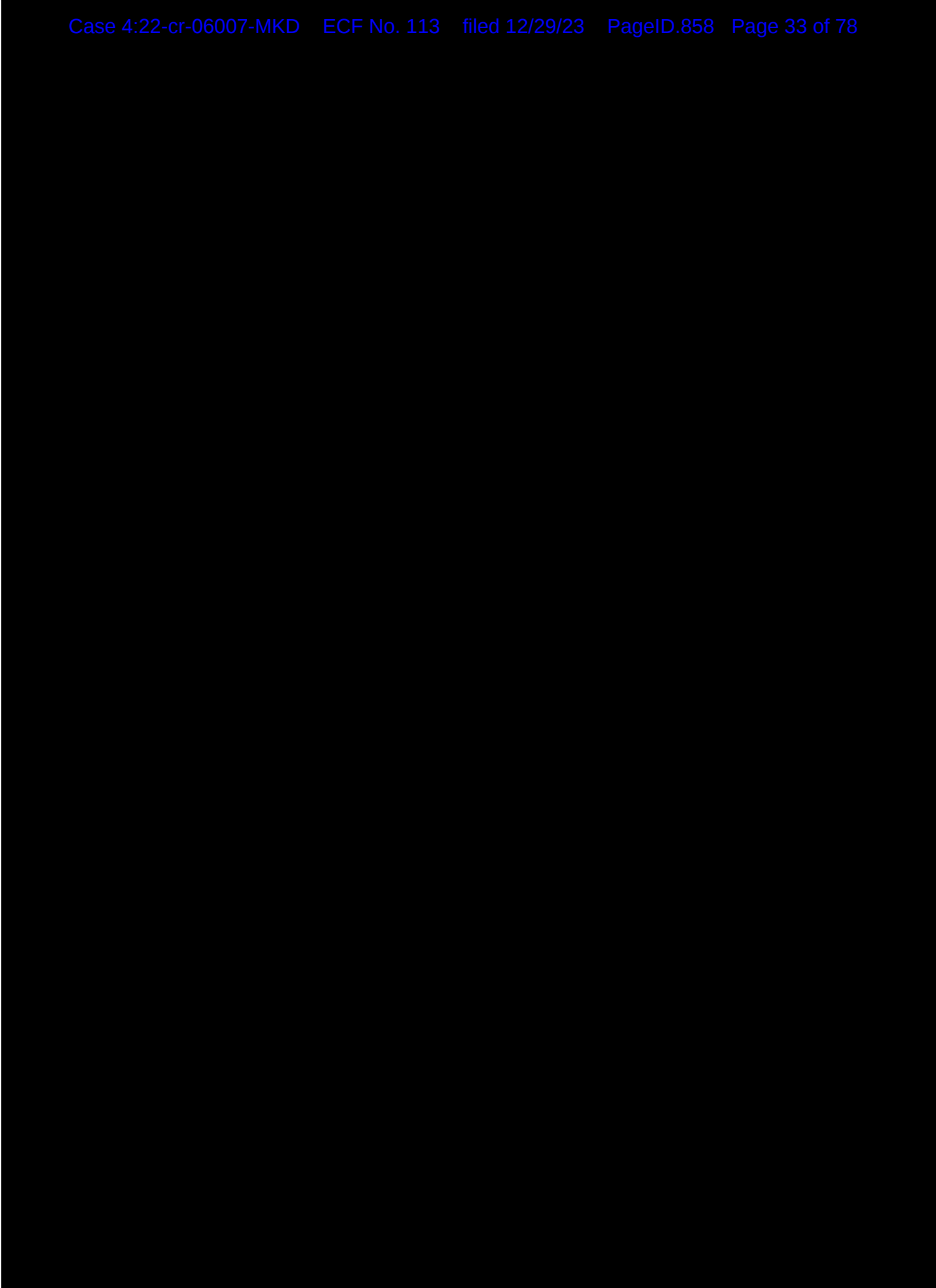




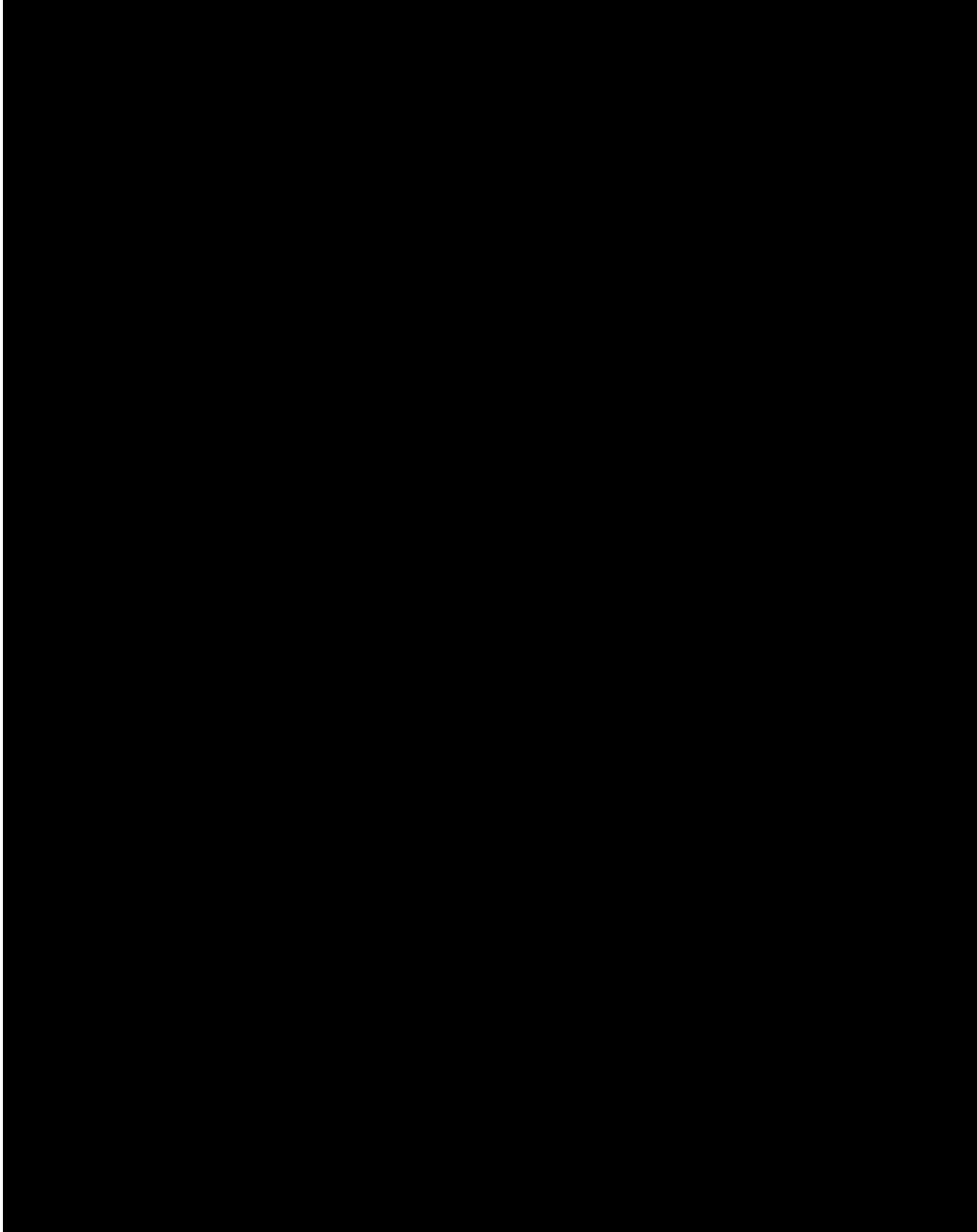


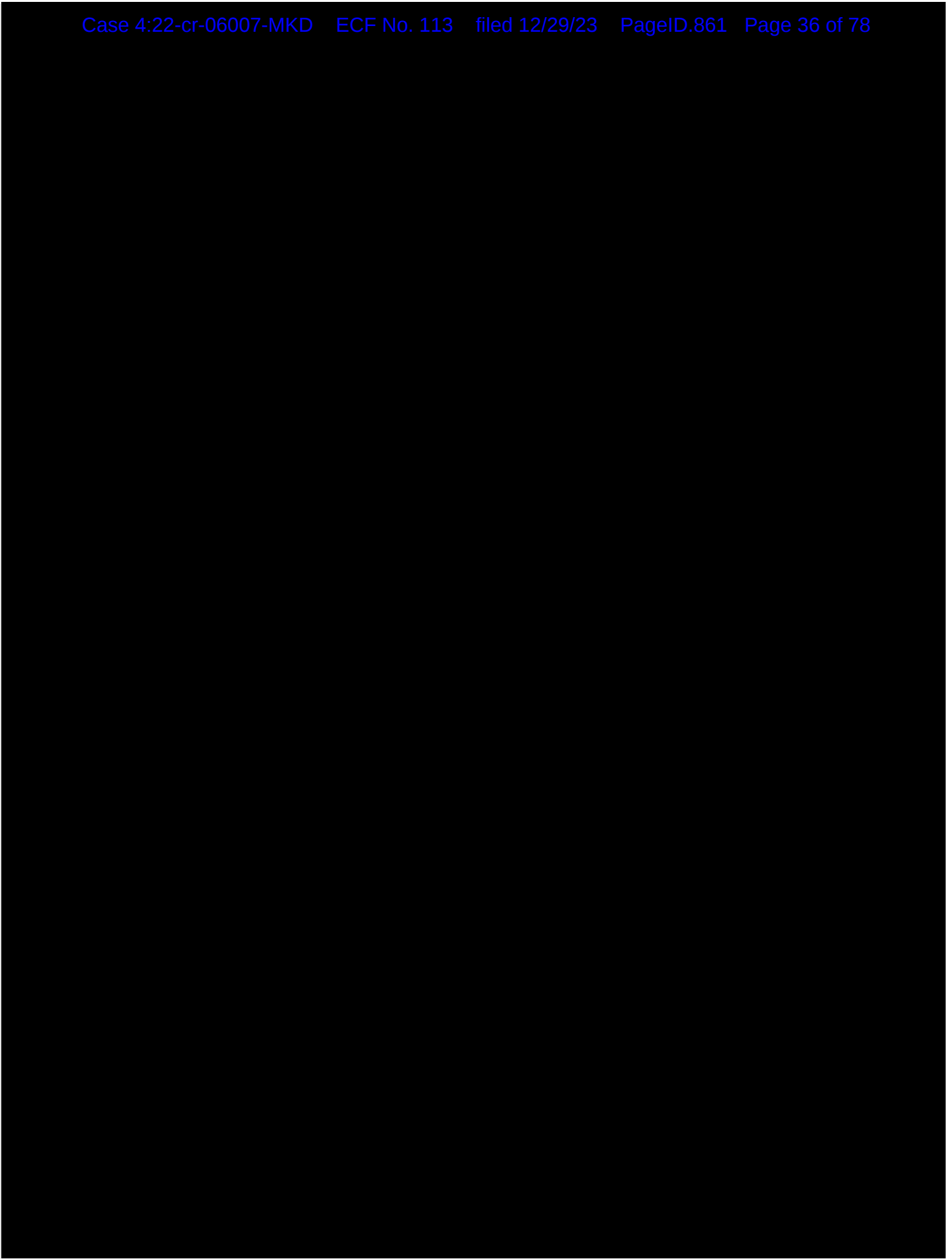


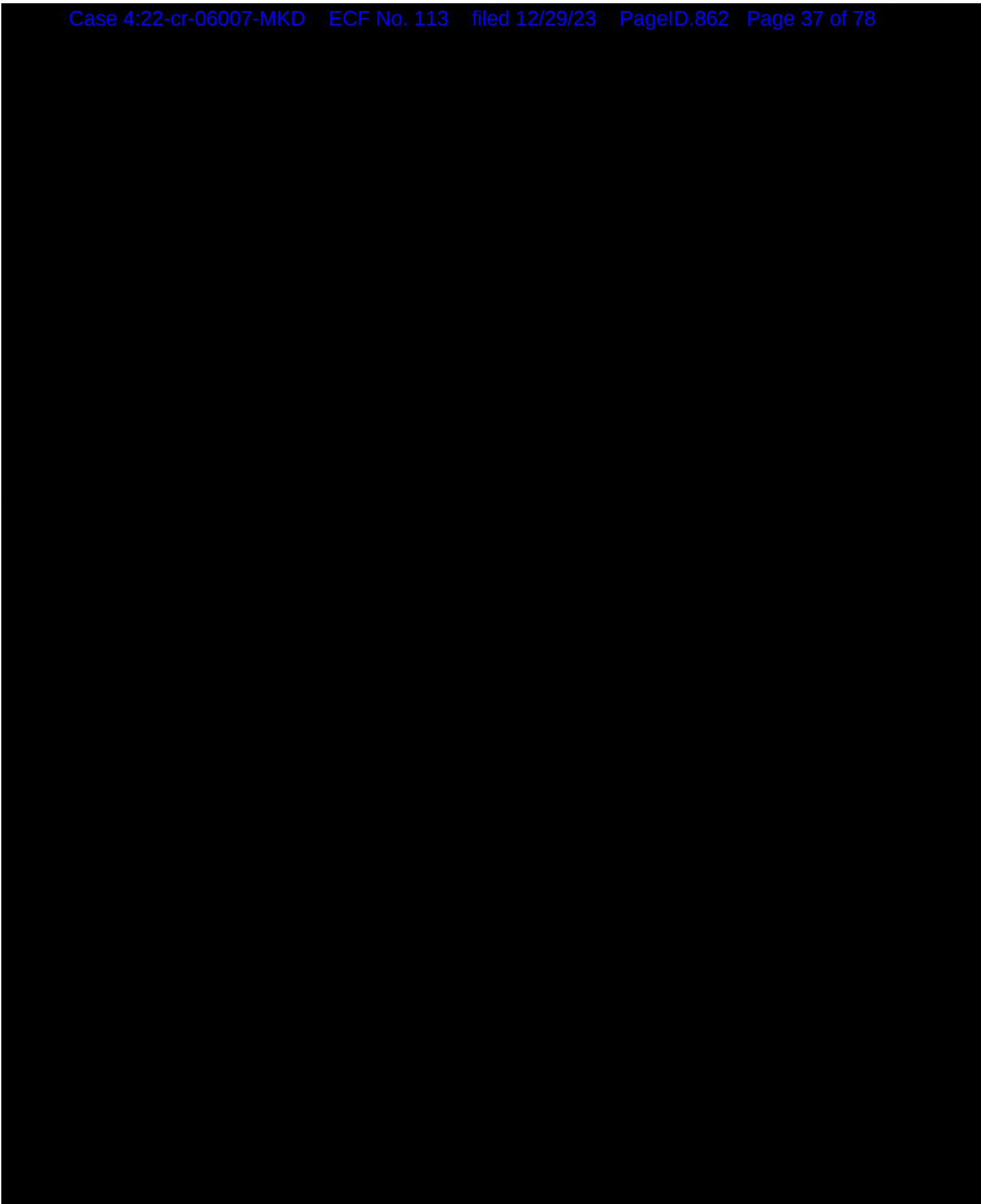


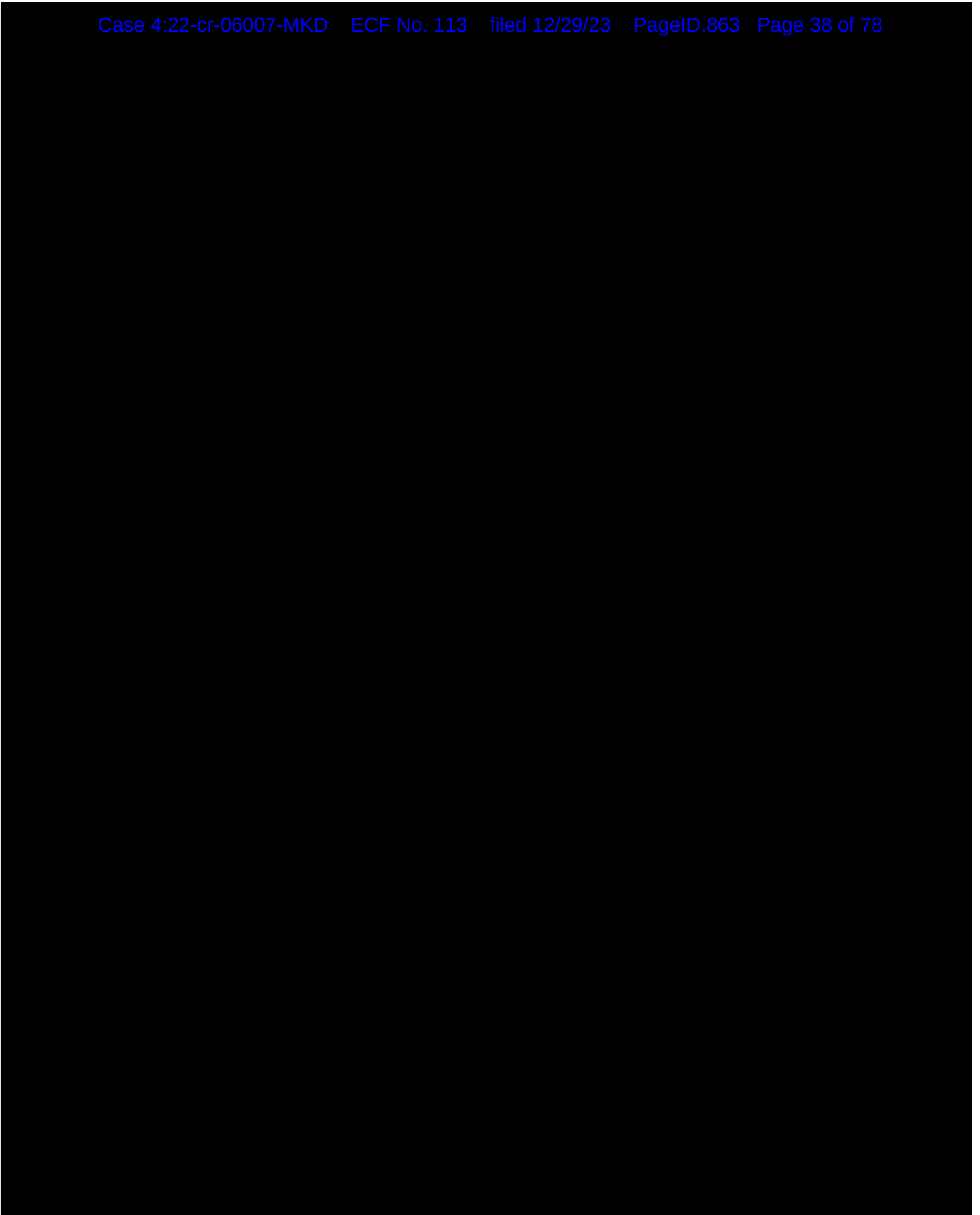


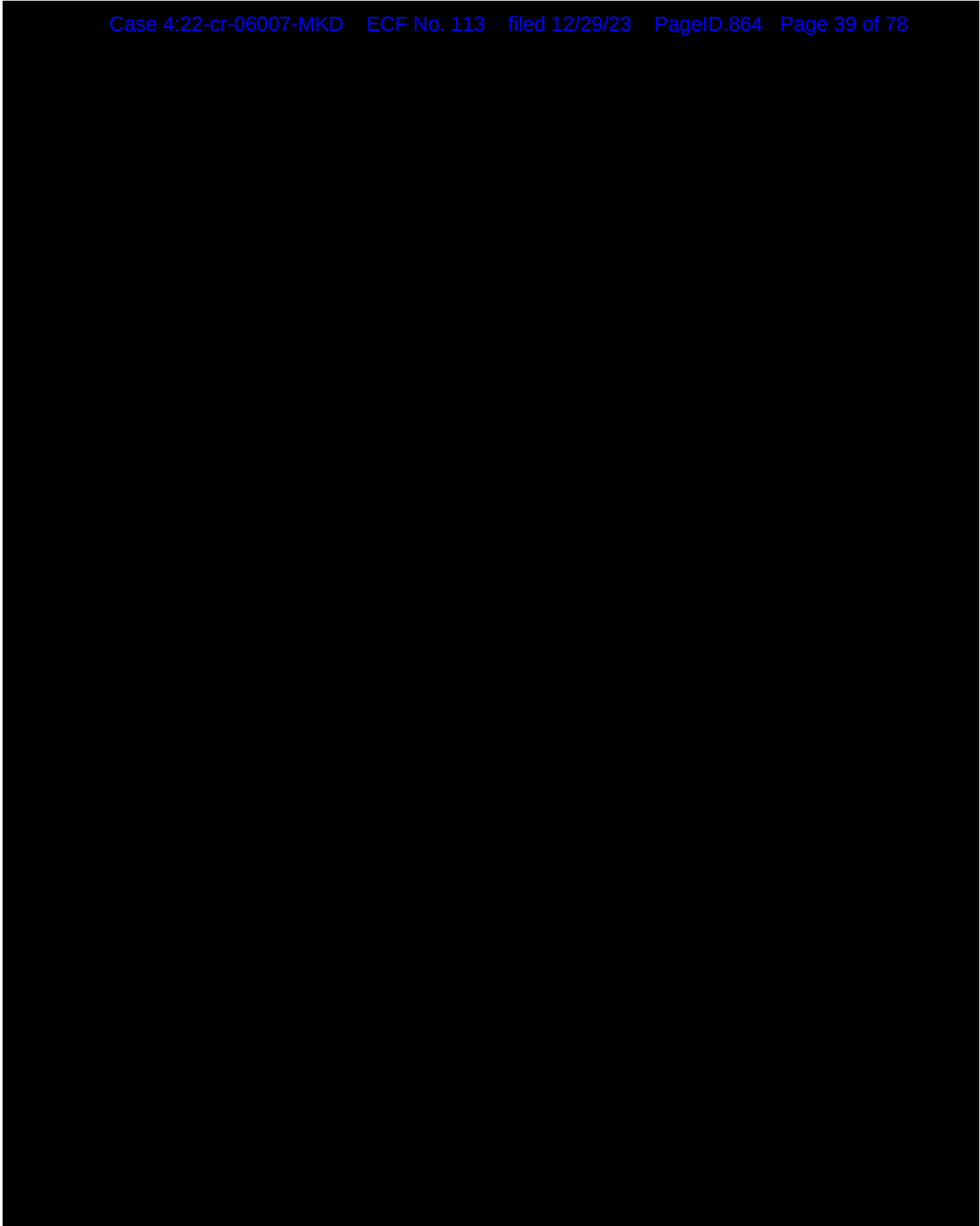






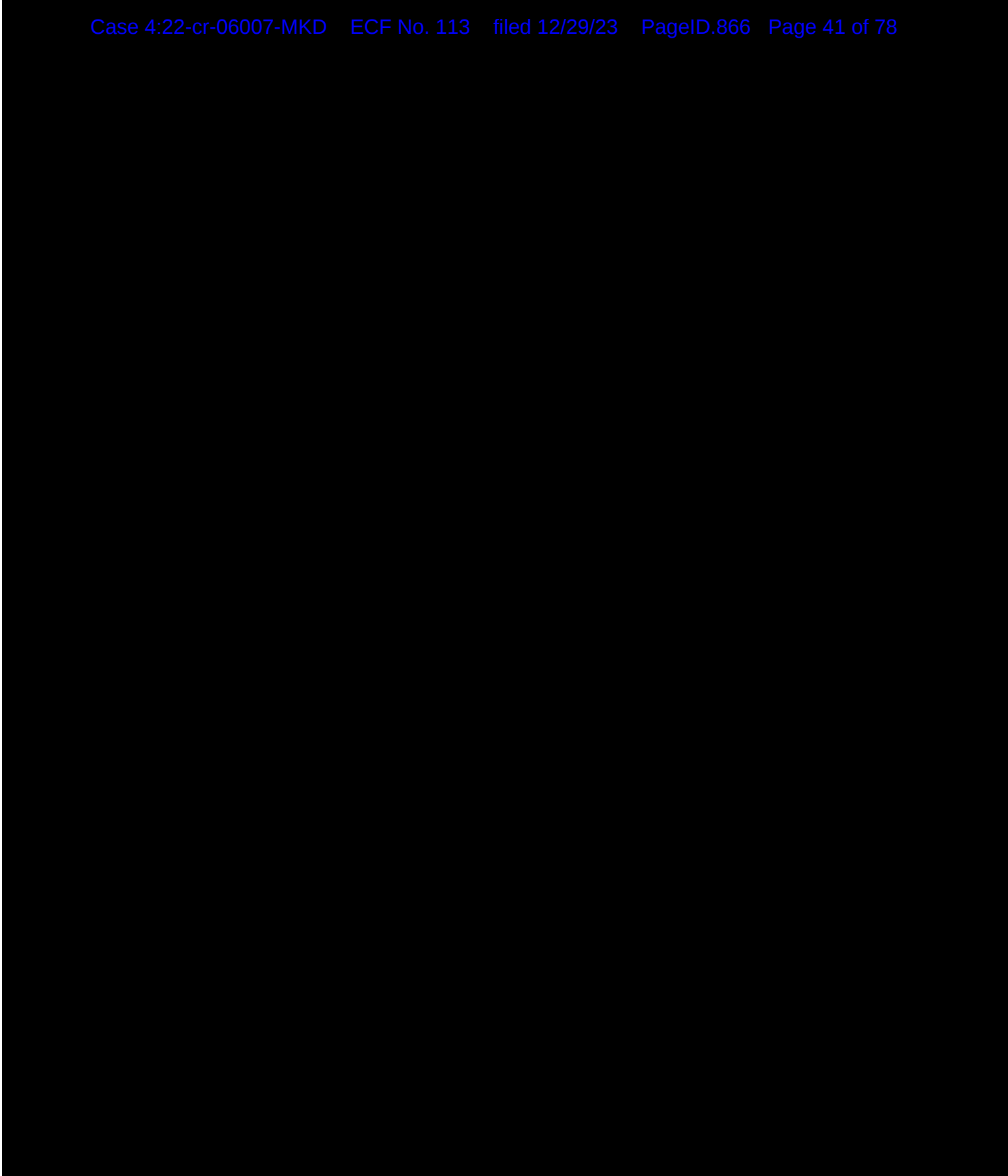




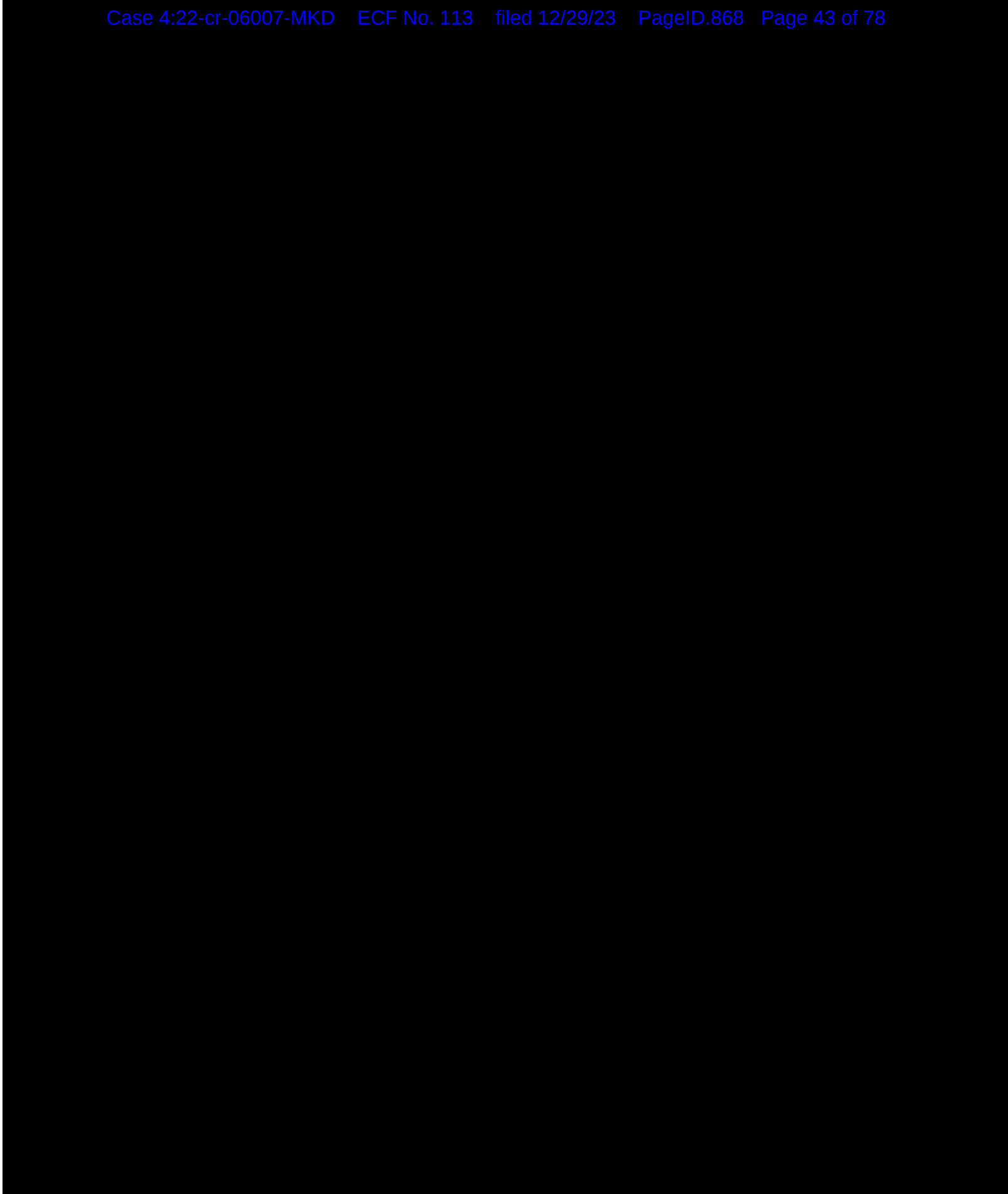


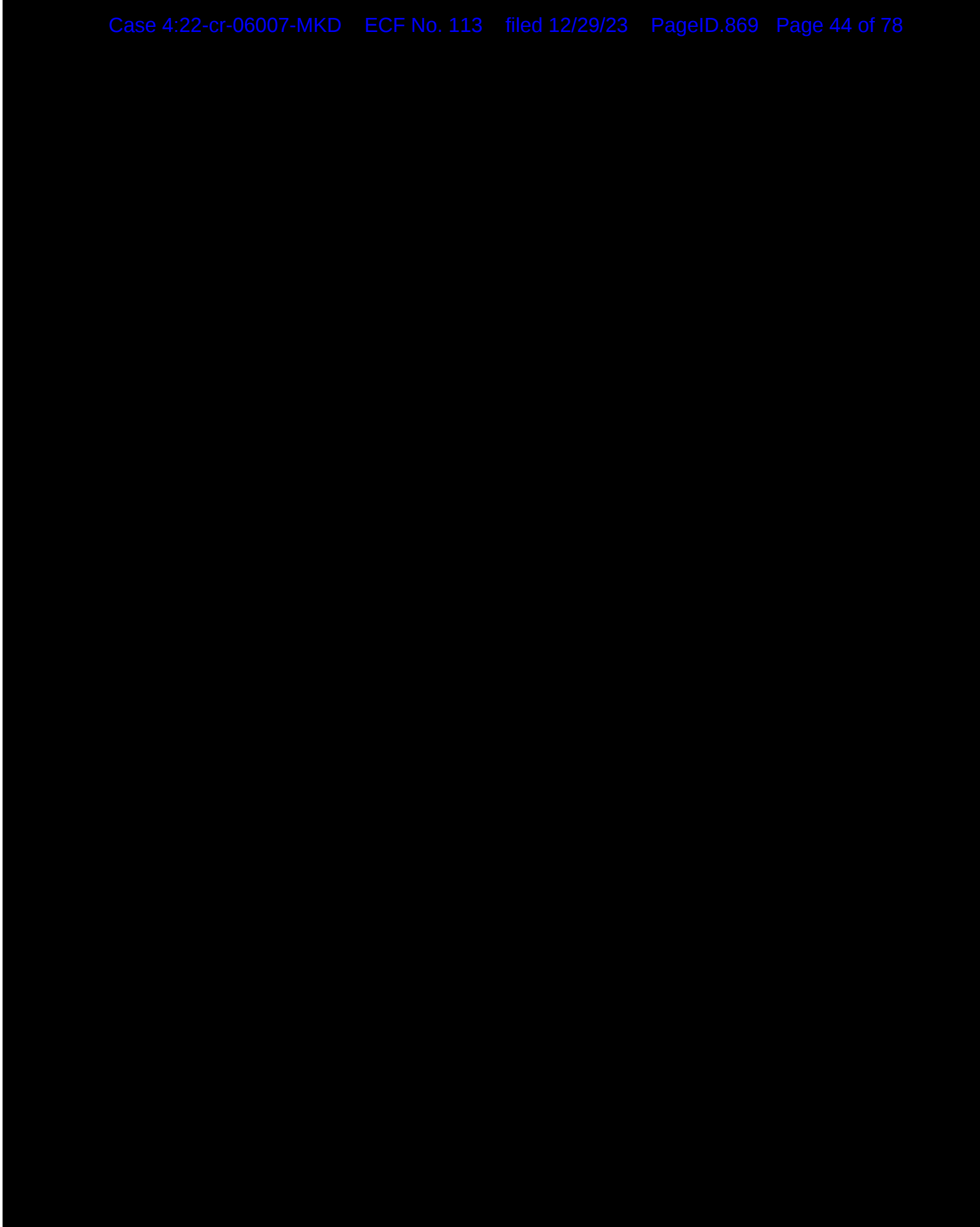


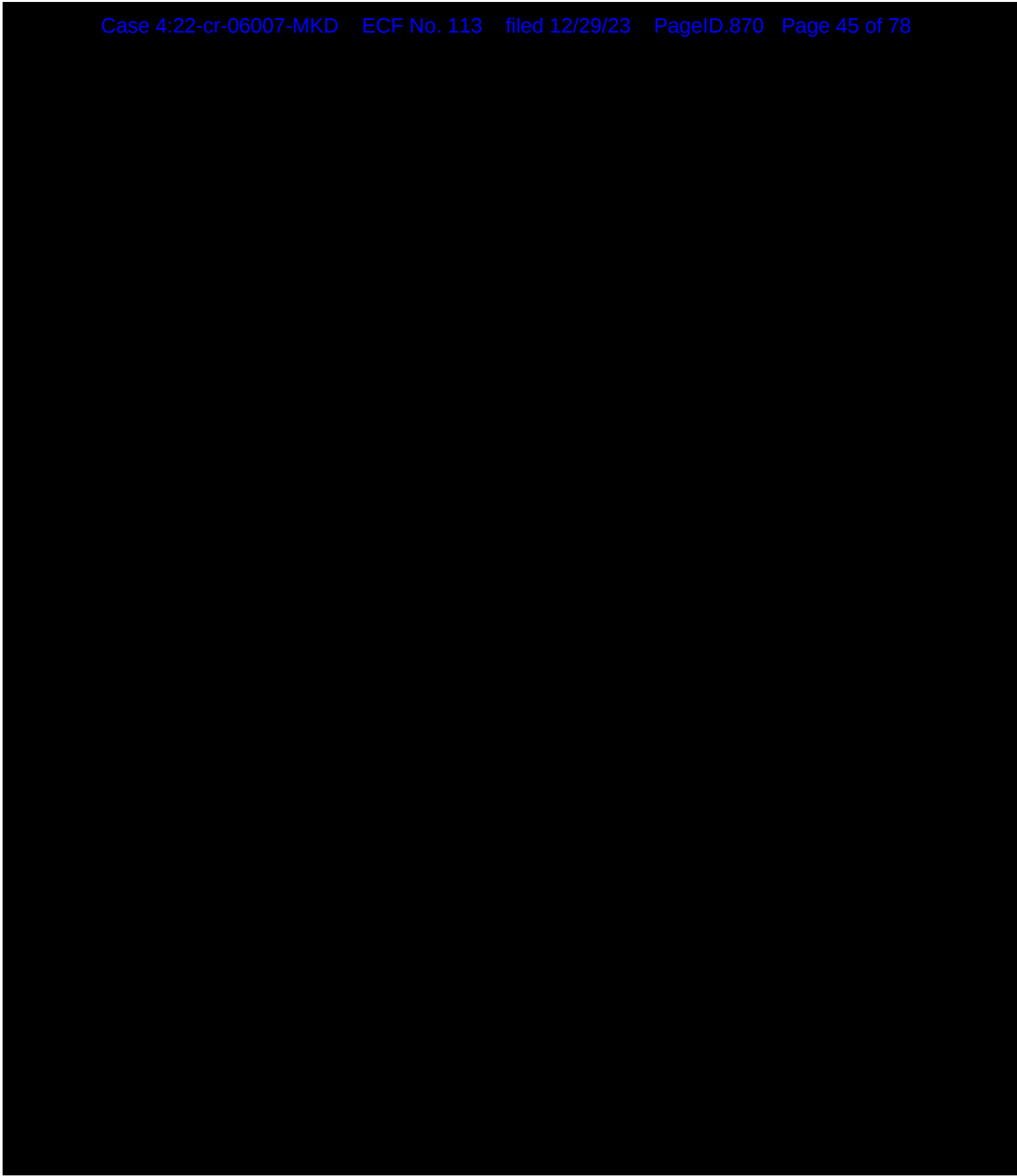


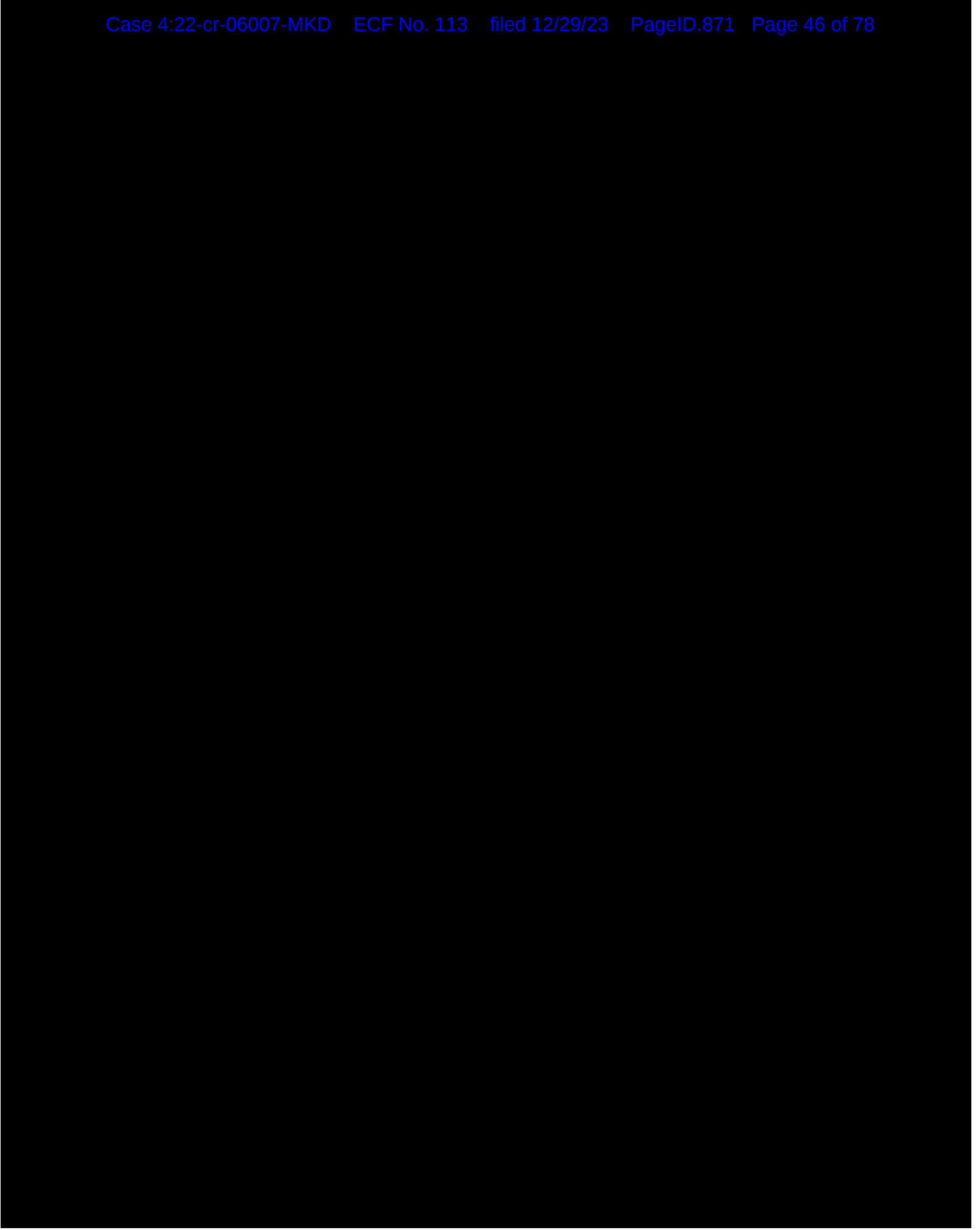








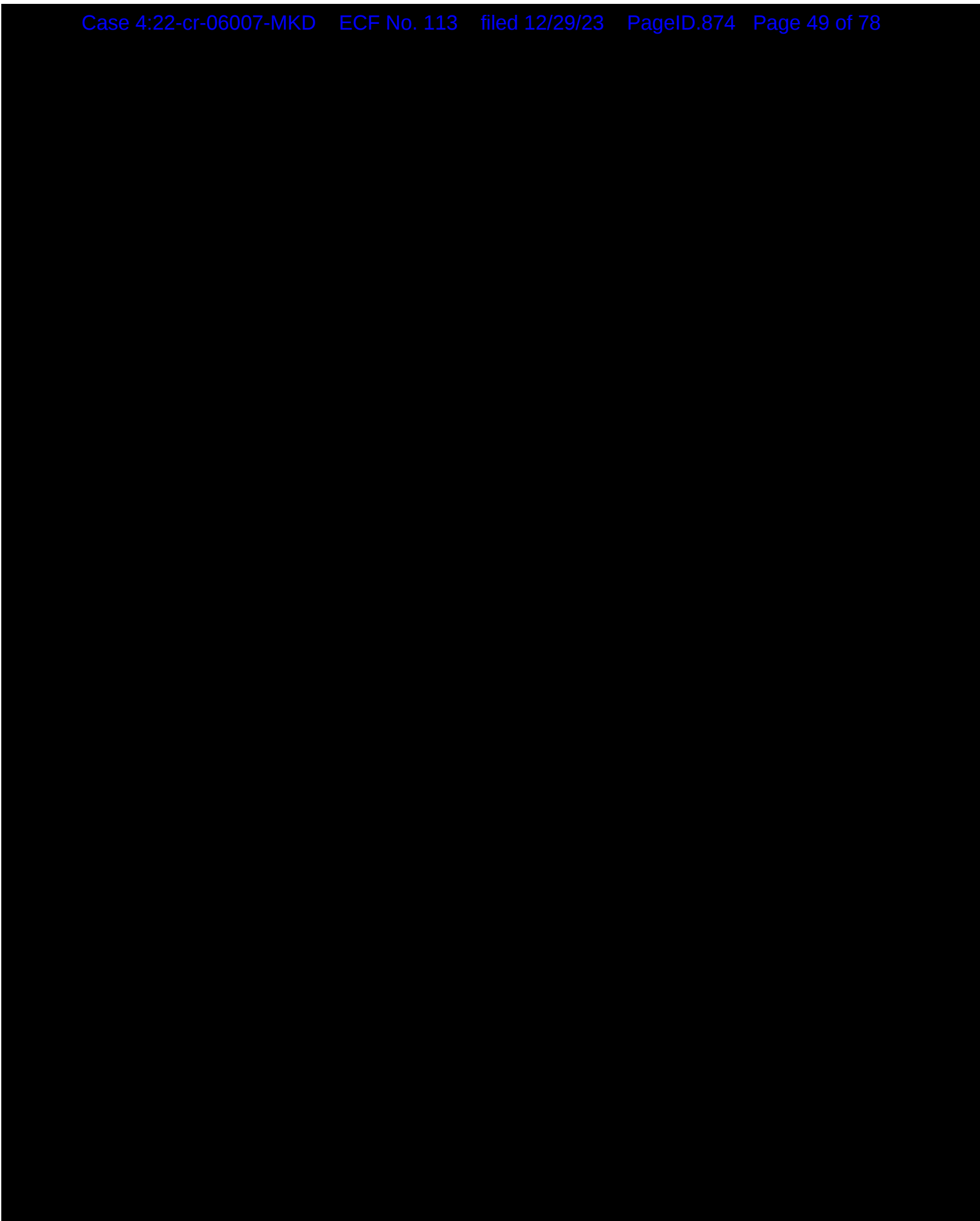




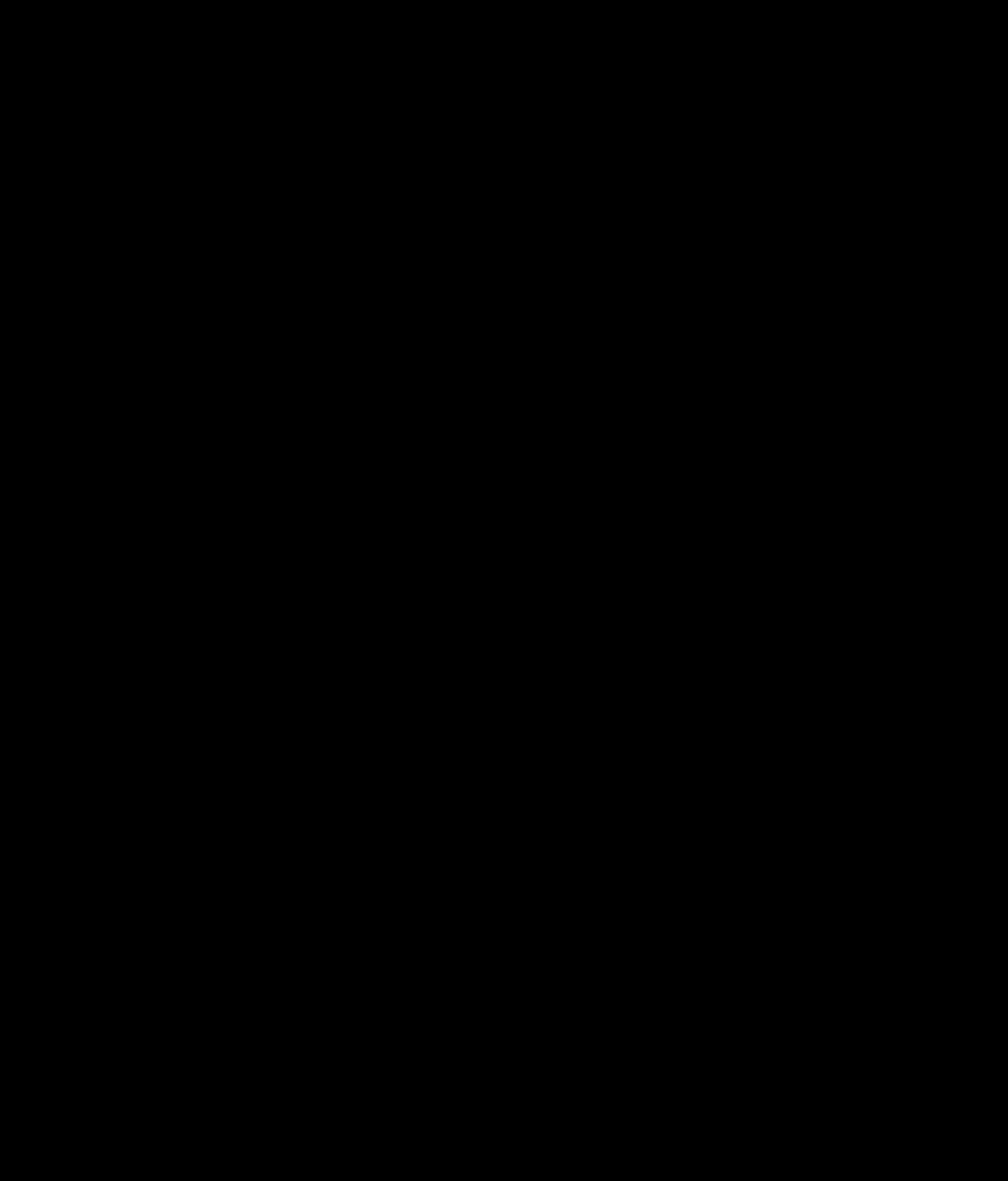


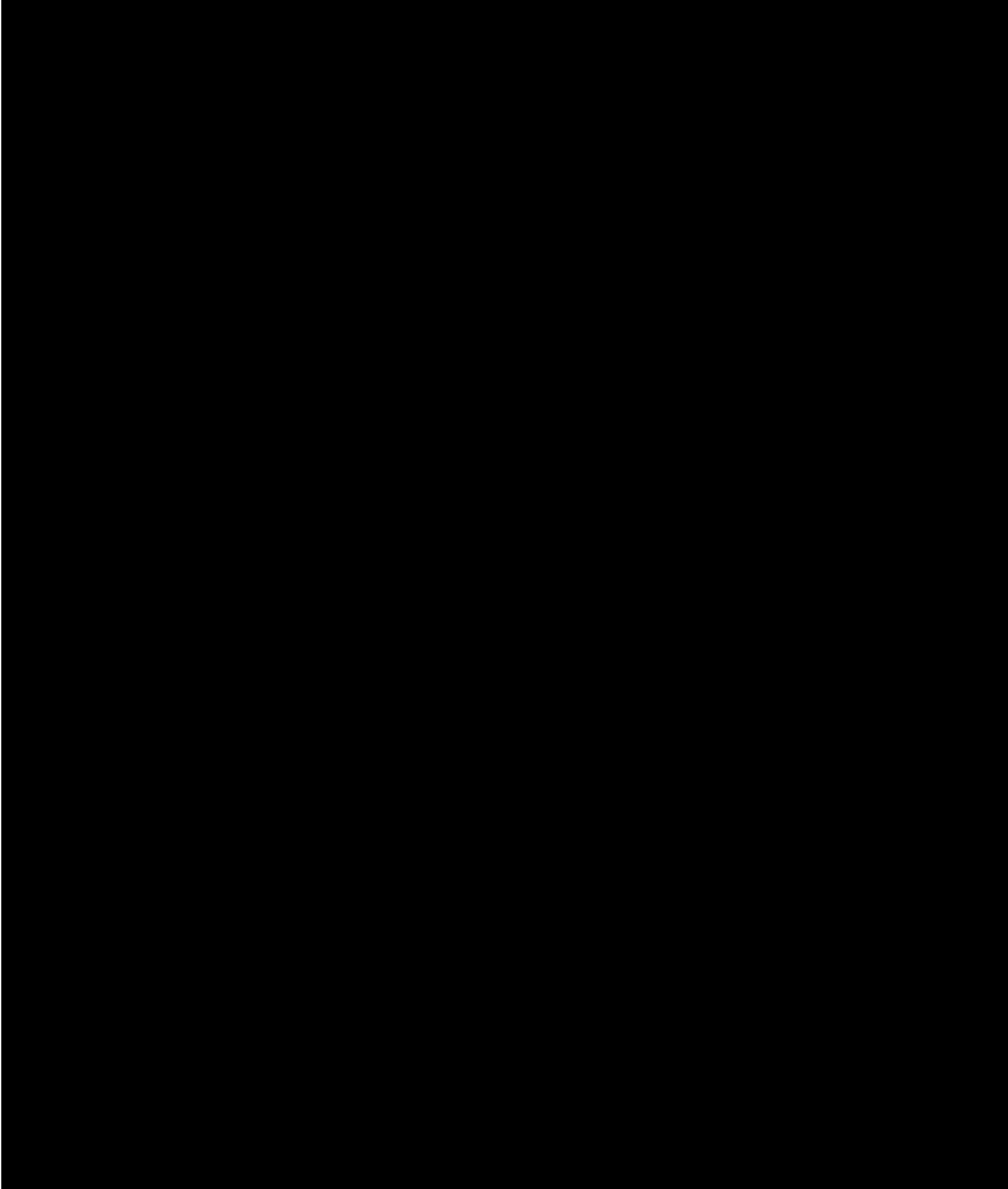




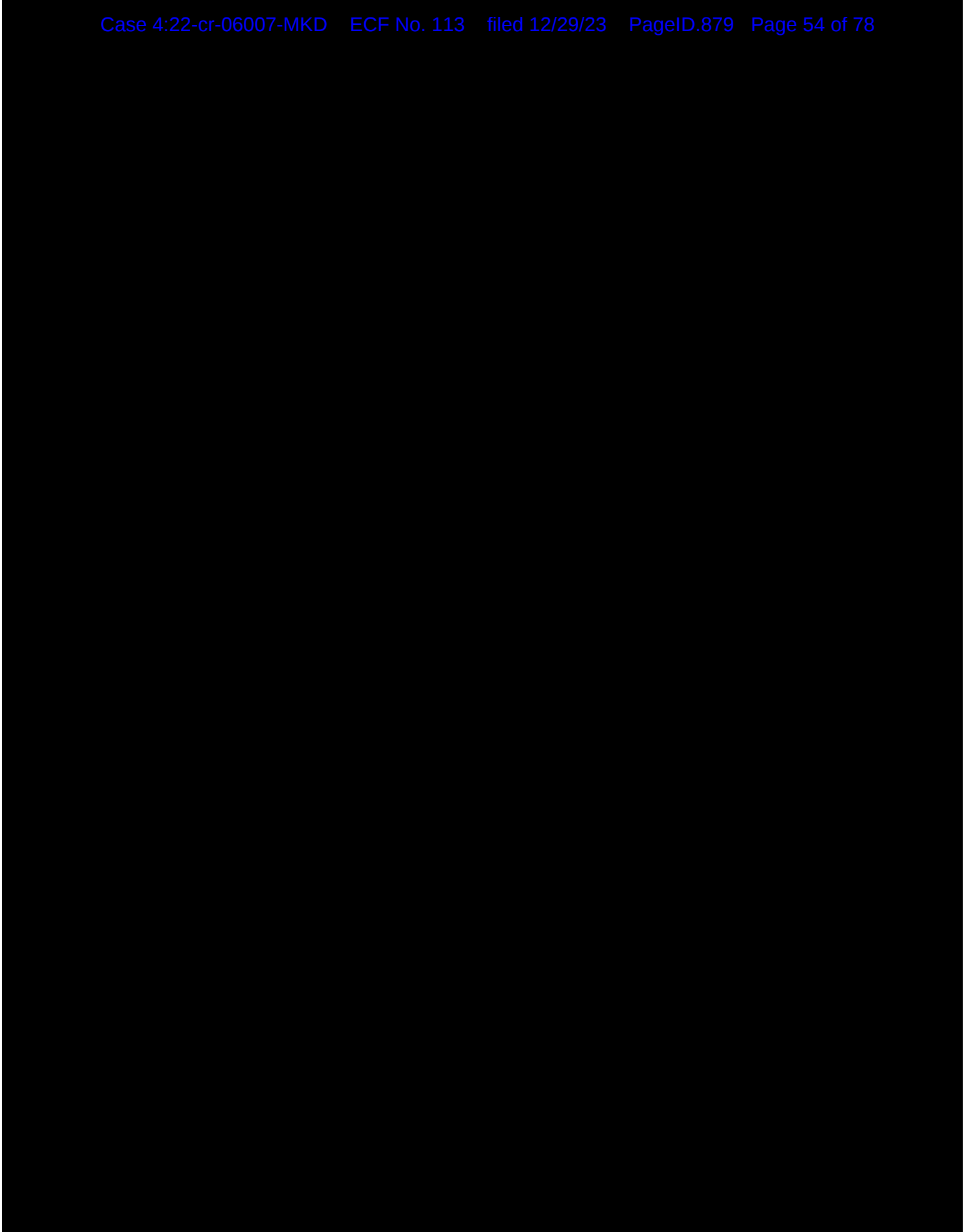


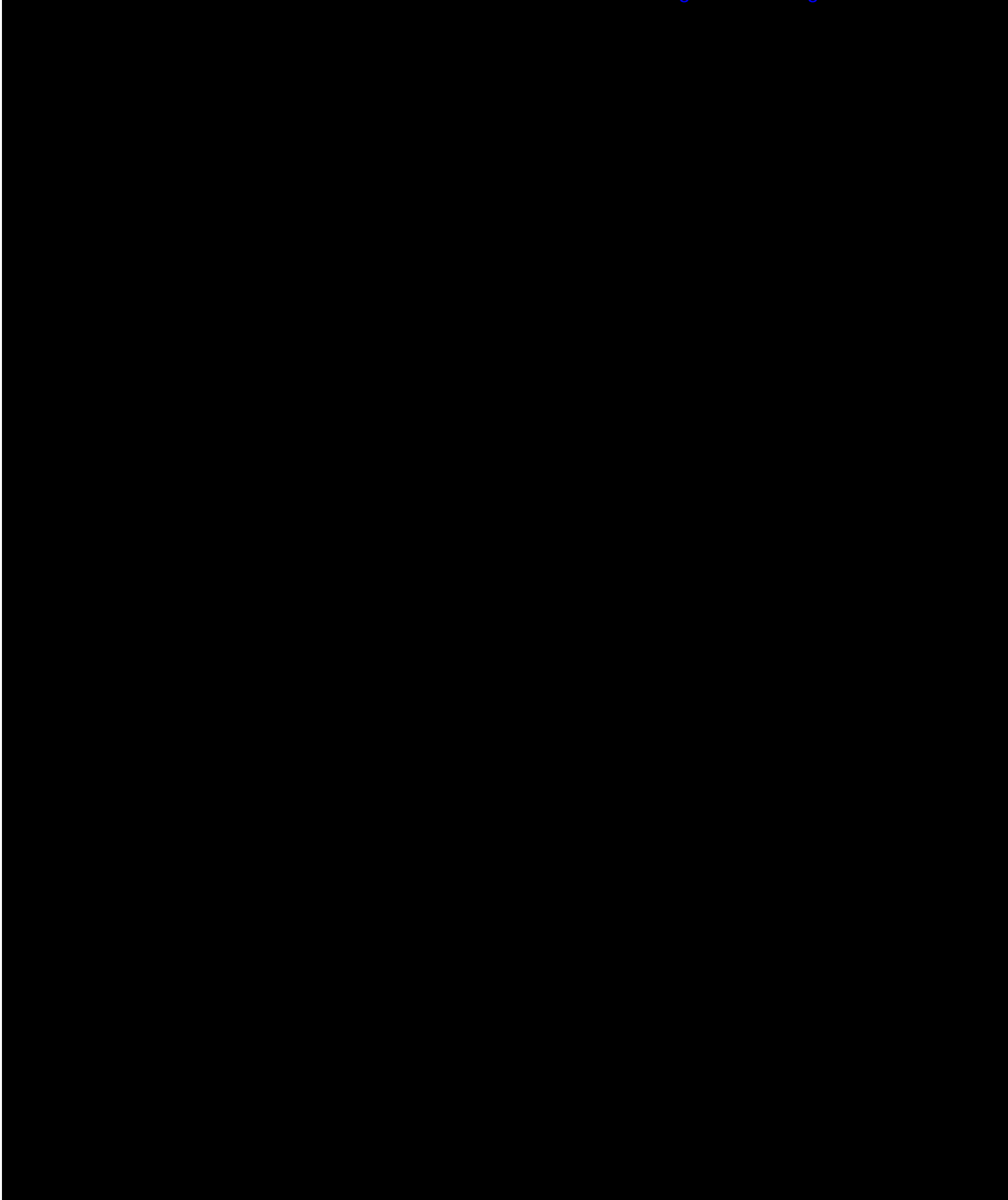


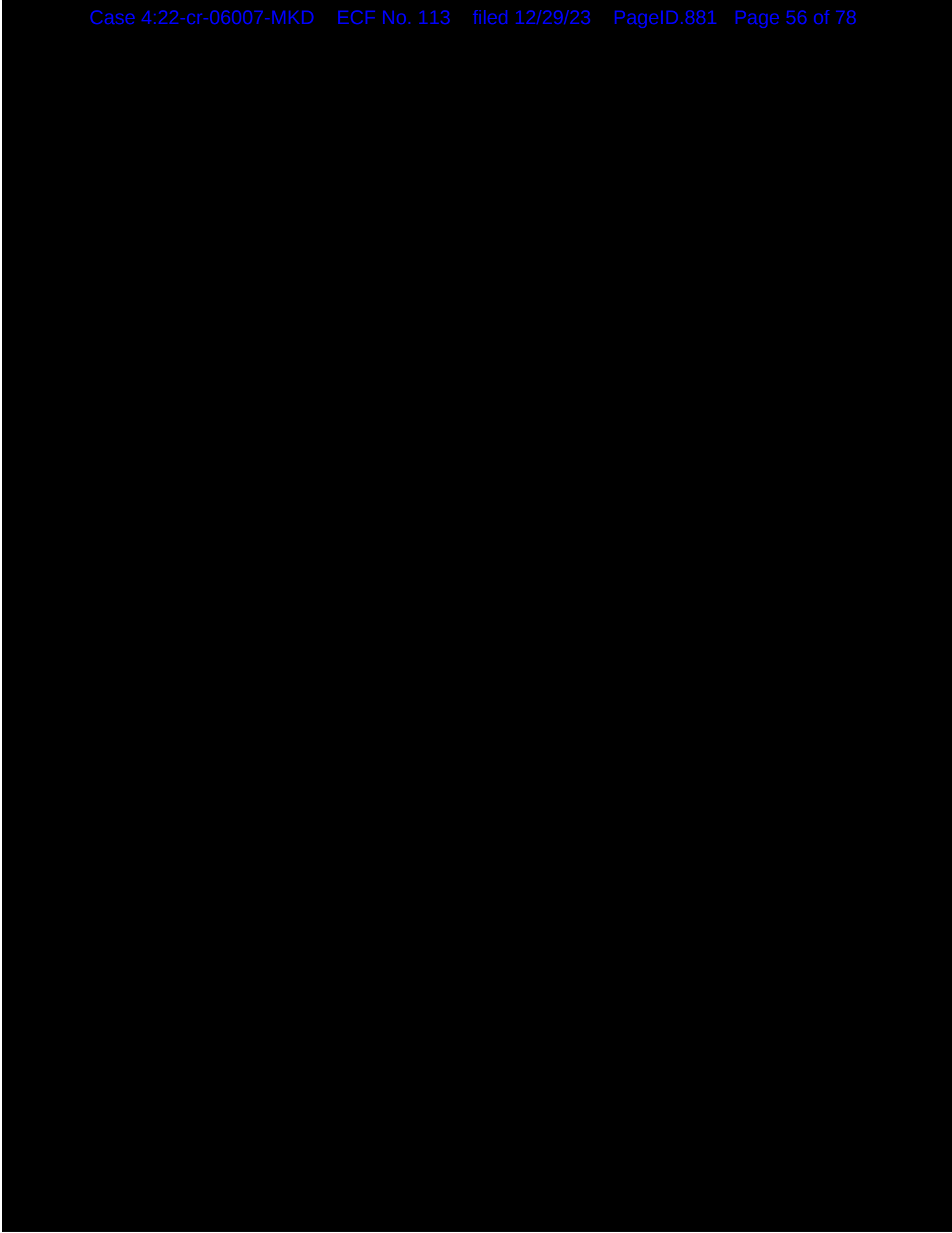






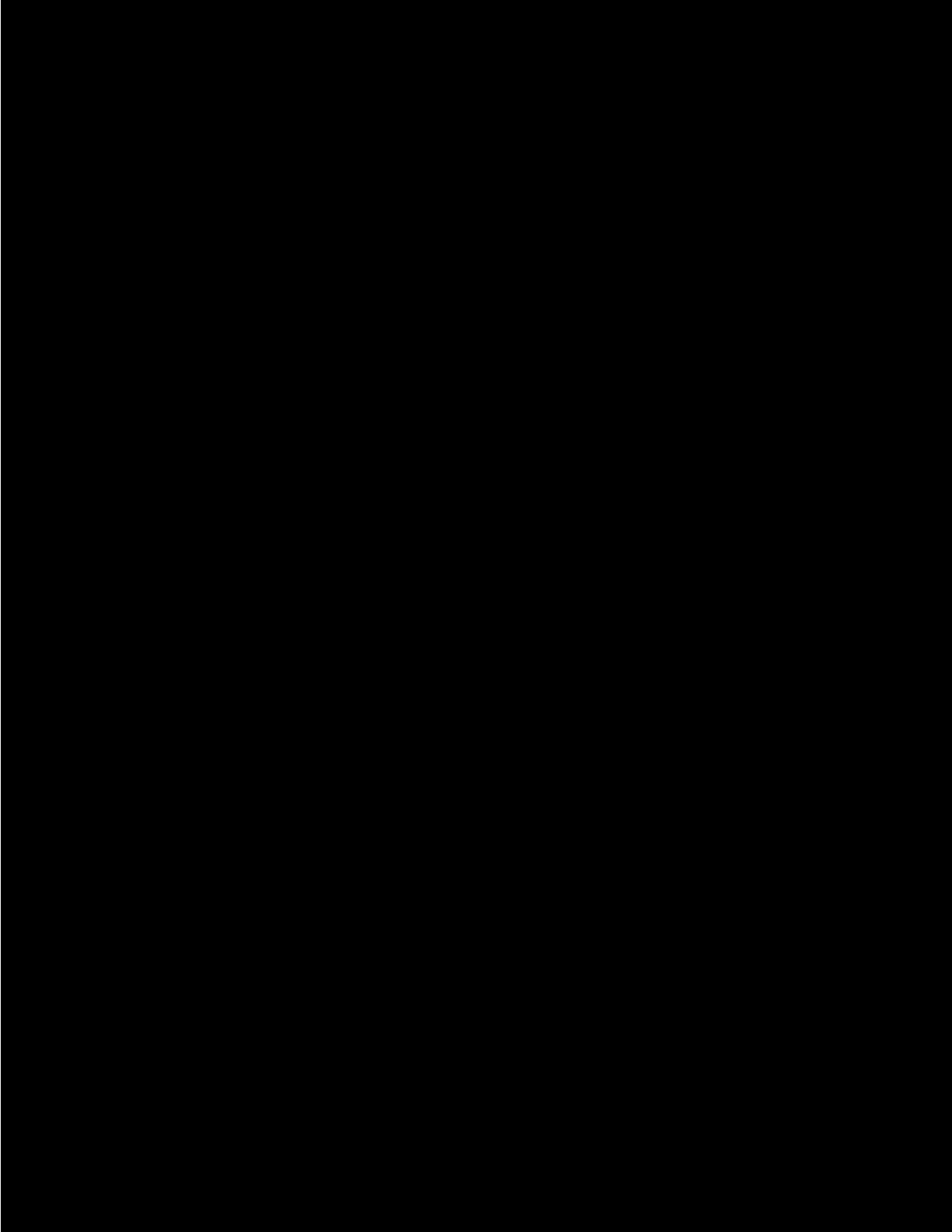






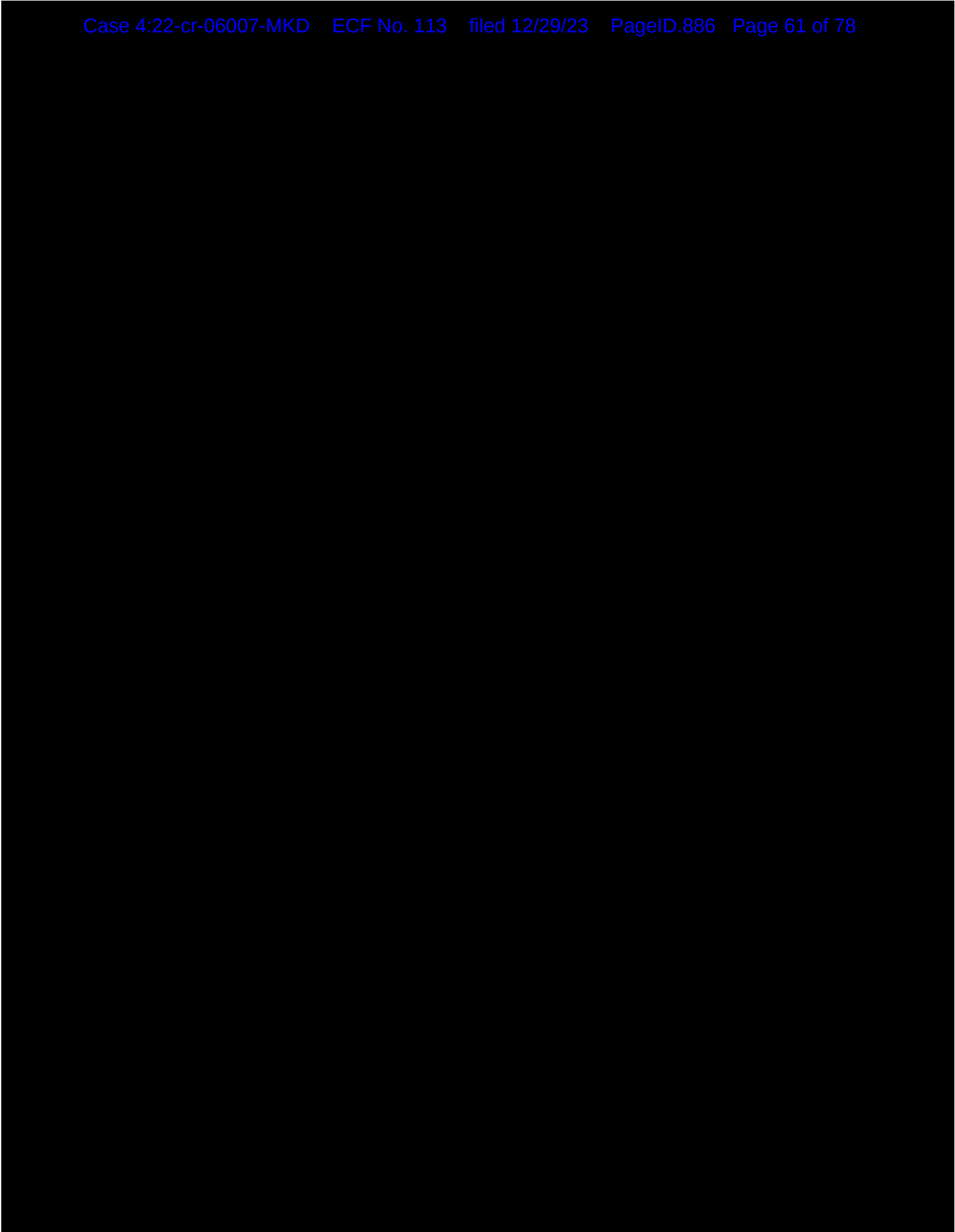




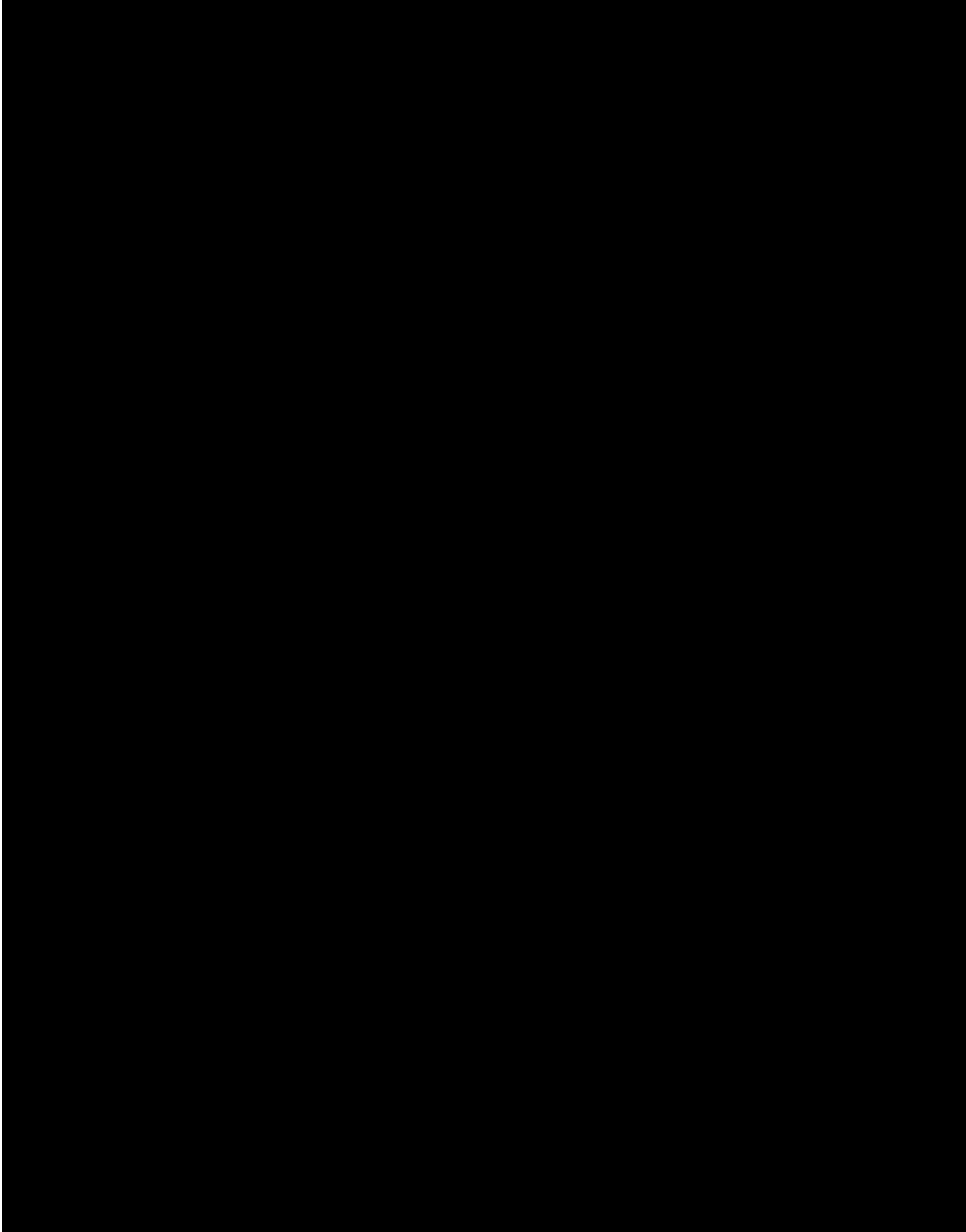


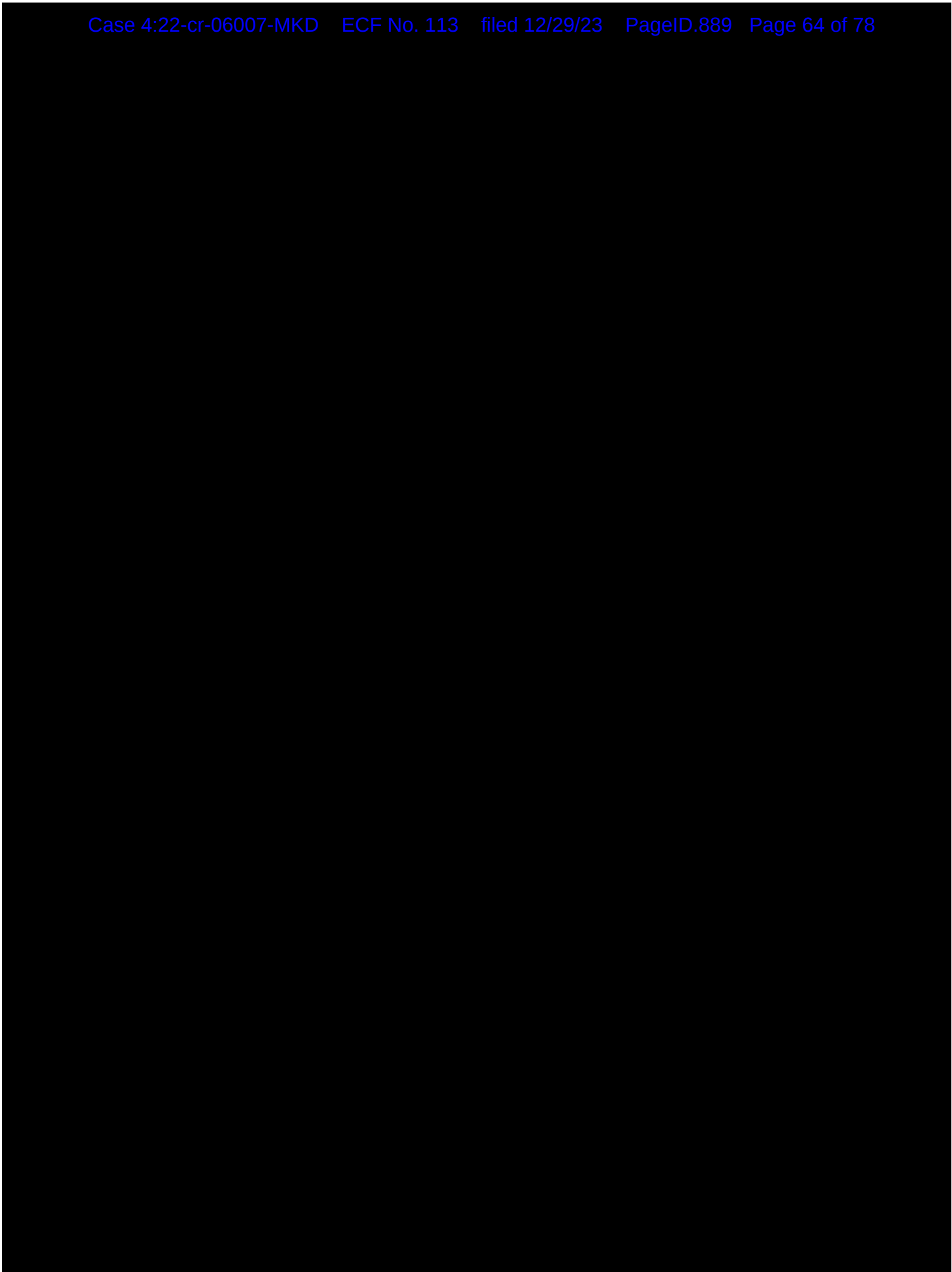






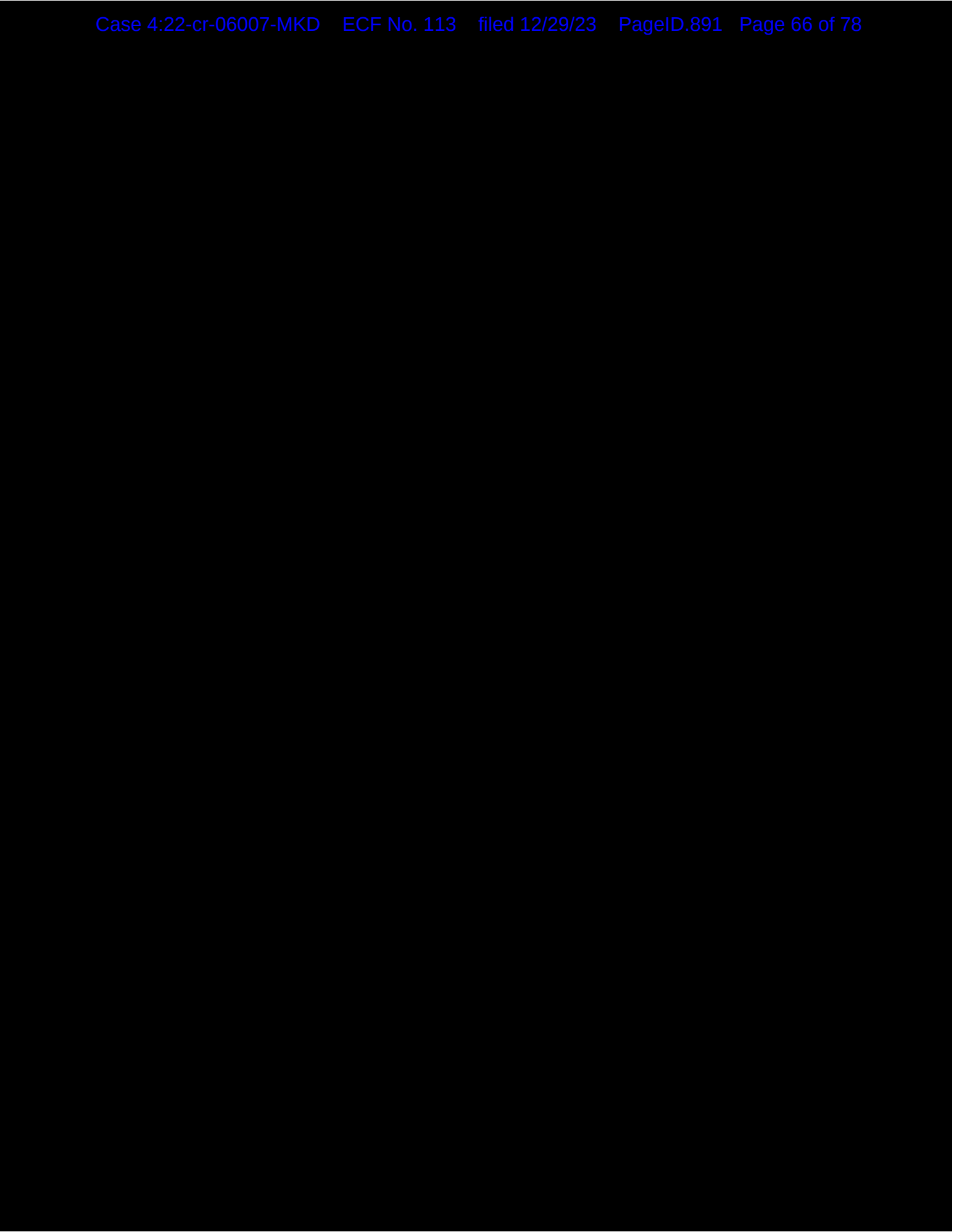




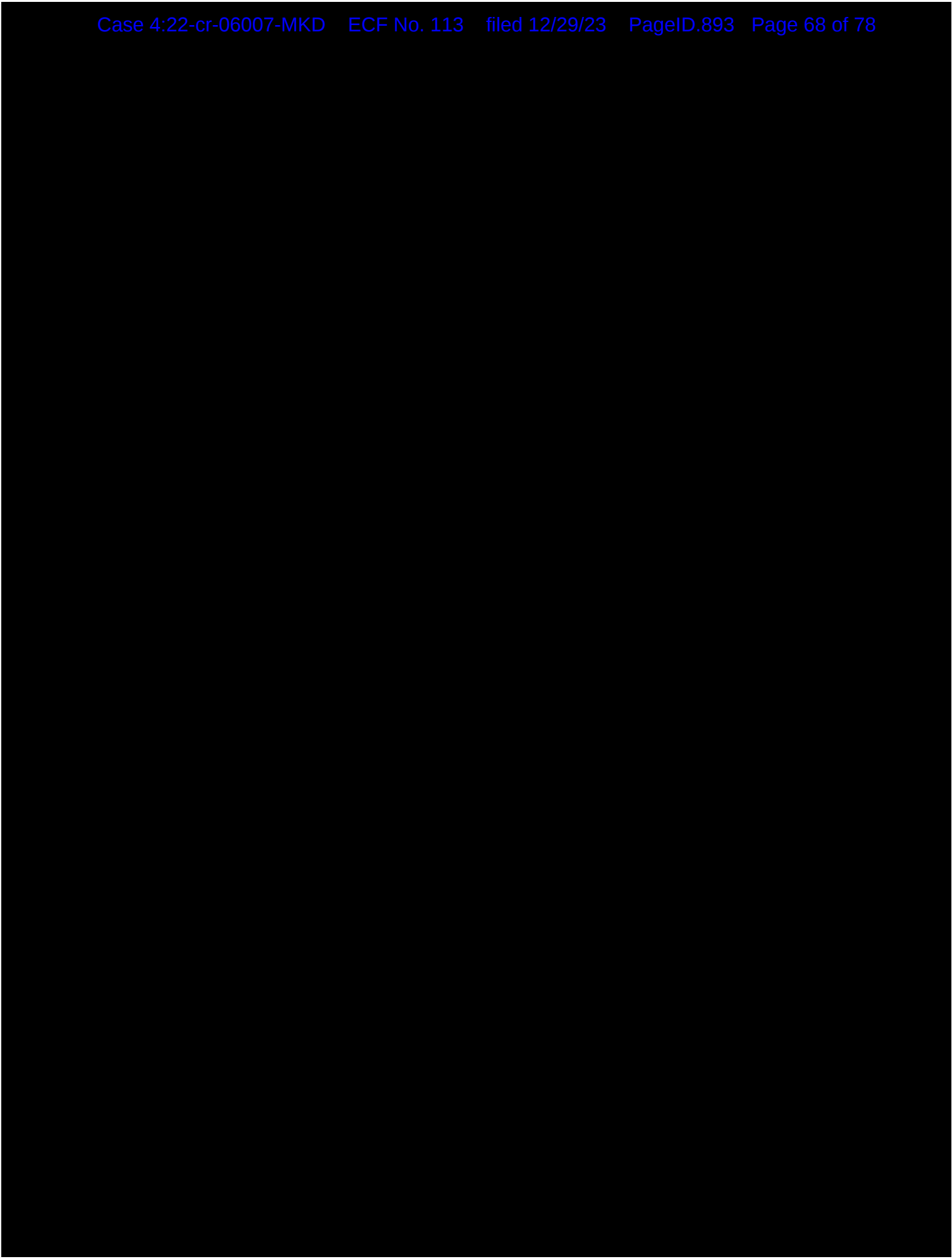
















GOVERNMENT'S  
EXHIBIT B

## Incident/Investigation Report

Agency: KPD

Case Number: 21-22358

Date: 09/30/2021 12:22:06

### Supplement Notes

Detective Kirk Nebeker #1402

21-22358/Rape of a Child





## Incident/Investigation Report

Agency: KPD

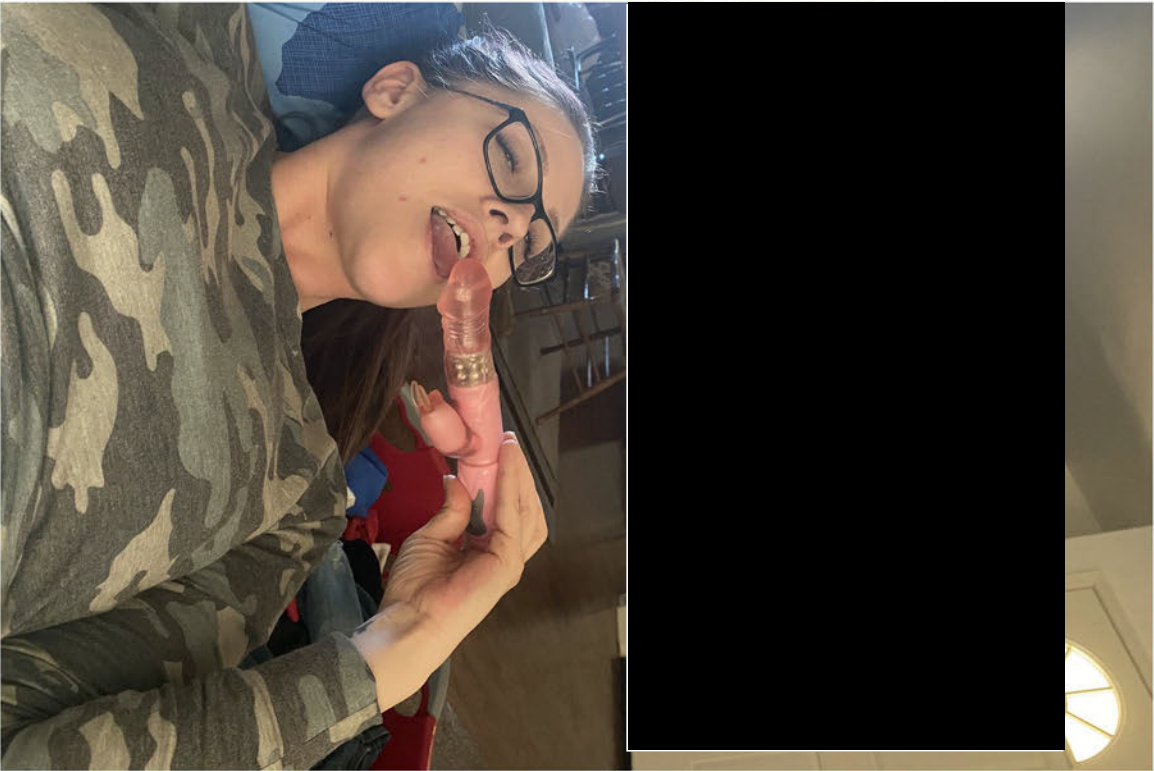
Case Number: 21-22358

Date: 09/30/2021 12:22:06

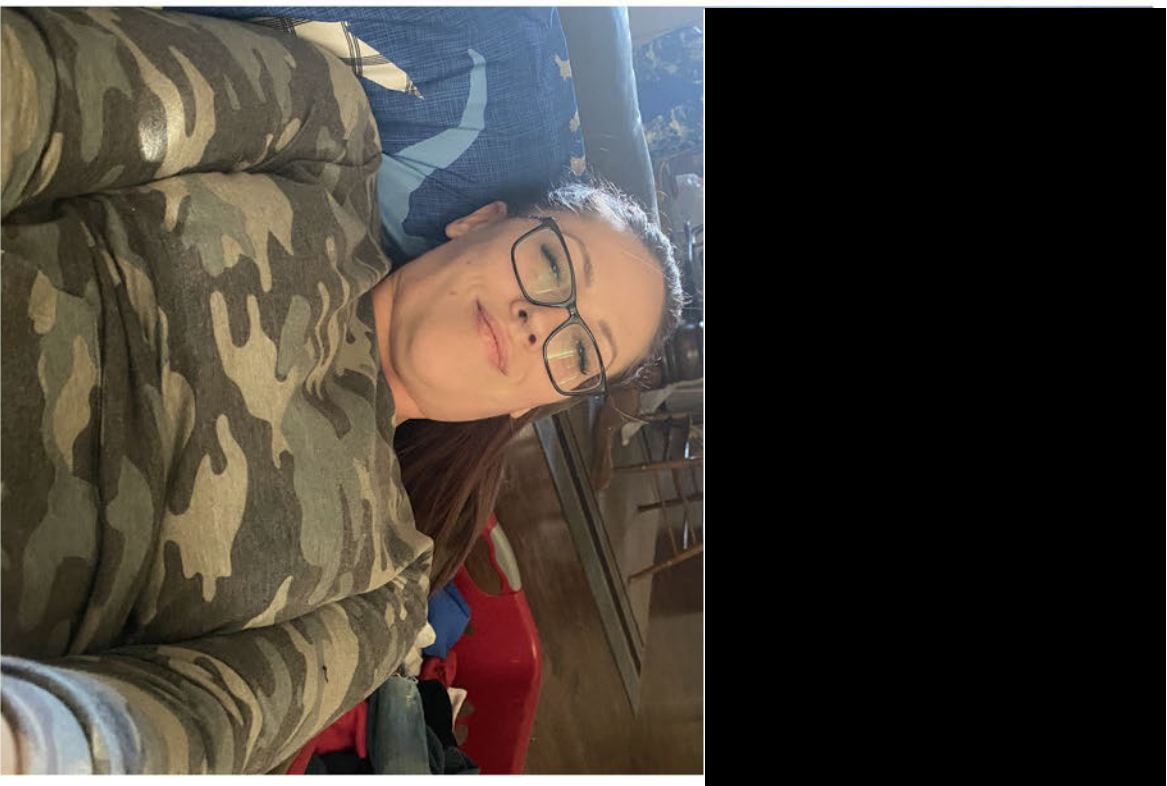
Closed/Cleared Arrest  
K. Nebeker K81

GOVERNMENT'S  
EXHIBIT C

IMG\_8639.HEIC



IMG\_8638.HEIC



GOVERNMENT'S  
EXHIBIT D

**Incident/Investigation Report****Agency:** KPD**Case Number:** 21-22358**Date:** 09/30/2021 12:22:06**Supplement Information**

<b>Supplement Date</b>	<b>Supplement Type</b>	<b>Supplement Officer</b>
06/07/2021 19:07:25	CHILD ADVOCATE	(1402) NEBEKER, KIRK
<b>Contact Name</b>	INTERVIEW	<b>Supervising Officer</b>
		(1186) SANTOY, JOSE

## Incident/Investigation Report

Agency: KPD

Case Number: 21-22358

Date: 09/30/2021 12:22:06

### Supplement Notes

Detective Kirk Nebeker #1402

21-22358/Rape of a Child